

CM 334178

1942 SABOTEURS CASE

VOL. XVI OF XVIII

TRANSCRIPT

16

STENOGRAPHIC TRANSCRIPT OF PROCEEDINGS
Before the
MILITARY COMMISSION TO TRY PERSONS CHARGED WITH
OFFENSES AGAINST THE LAW OF WAR AND THE
ARTICLES OF WAR.

Washington, D. C.

Monday, July 27, 1942.

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C O N T E N T S .

Monday, July 27, 1942.

Name of Witness	Direct	Cross	Redirect	Recross	By Commission
Dean F. McWhorter	2578				
Earl J. Connelley	2588				
Ernest Peter Burger	2592		2680, 2699, 2708		2685
By The Attorney General		2619		2698, 2707	
By Colonel Ristine		2664			
Marie Kerling	2716	2722	2725	2726	
Hedwig Engemann	2727	2735	2740		2743
Col. Stephen H. Sherrill	2745	2750			
Thomas J. Donegan	2758	2761			

EXHIBITS

Prosecution	For Identification	In Evidence	In Record
P-266 Citizenship papers of Burger		2626	2627
Defendants'			
G Memo, 6/14/42, D.F. McWhorten	2582	2582	2583
H Letter, 5/26/33 from Capt. Szulakiewicz		2701	2701
I Letter, 9/30/33 from Capt. Szulakiewicz		2701	2702
J Discharge of Burger 6/1/33		2701	2703
K Discharge of Burger 10/22/31		2701	2705
L Confidential War Department letter 7/27/42 with letter of 3/18/42		2711	2751
M Map attached to exhibit L		2711	

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Before the
MILITARY COMMISSION TO TRY PERSONS CHARGED WITH
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Washington, D. C.

Monday, July 27, 1942.

The Military Commission appointed by the President by order dated July 2, 1942, met, in room 5235 Department of Justice, at 10 o'clock a.m., to try for offenses against the Law of War and Articles of War, the following persons:
Ernest Peter Burger, George John Dasch, Herbert Haupt, Heinrich Harm Heinck, Edward John Kerling, Hermann Neubauer, Richard Quirin and Werner Thiel.

PRESENT: Members of the Military Commission, as follows:

Major General Frank R. McCoy, President,
Major General Walter S. Grant,
Major General Blanton Winship,
Major General Lorenzo D. Gasser,
Brigadier General Guy V. Henry,
Brigadier General John T. Lewis,
Brigadier General John T. Kennedy.

As Trial Judge Advocates:

Honorable Francis Biddle, Attorney General of
the United States.
Major General Myron Cramer, The Judge Advocate
General, U. S. Army.

Colonel F. Granville Munson,
Colonel John M. Weir,
Major William T. Thurman,
Officers of the Judge Advocate General's
Department.

Oscar Cox, Assistant Solicitor General of the
United States

As Provost Marshal:
Brigadier General Albert L. Cox.

As Counsel for the Accused except George John Dasch:

Colonel Cassius M. Dowell,
Colonel Kenneth Royall,

As Counsel for the Accused George John Dasch:

Colonel Carl L. Ristine.

- - -

P R O C E E D I N G S

The President. The session is open.

Colonel Munson. The full personnel of the Commission, the eight defendants, and the reporter are present.

The full personnel of the prosecution is present except Colonel Treusch and Mr. Rowe.

The full personnel of the defense is present except Major Stone, Captain Bruton, and Captain Hummel.

Colonel Royall. Is the Commission ready to proceed?

The President. Yes.

Colonel Royall. I beg your pardon, Colonel Ristine.

Colonel Ristine. If the Commission please, I would like to call the Federal Agent of the F.B.I., Mr. McWhorter, of New York.

Lieutenant Page. Mr. D. F. McWhorter. This witness has not been sworn as to secrecy.

Colonel Munson. Mr. McWhorter, the Commission instructs me to inform each witness who appears before it that it requires an oath of secrecy as to these proceedings that nothing shall be revealed that is learned inside the courtroom without the courtroom, and also instructs me to inform each witness that a violation of the oath of secrecy may result in punishment by contempt proceedings or other proceedings of a

criminal nature.

In taking the oath you understand that to be the fact?

Mr. McWhorter. I do.

Colonel Munson. Will you raise your right hand? Do you solemnly swear that you will not divulge the proceedings taken at this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by proper authority, so help you God?

Mr. McWhorter. I do.

Colonel Munson. You swear that the evidence you shall give in the hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McWhorter. I do.

DEAN F. McWHORTER

was called as a witness for the defense and testified as follows:

Questions by Colonel Munson:

Q Will you state, please, your full name, your business address, and your occupation?

A Dean F. McWhorter, 607 Federal Court House, New York City, Special Agent of the Federal Bureau of Investigation.

DIRECT EXAMINATION

Questions by Colonel Ristine:

Q Mr. McWhorter, did you have a conversation over the telephone on or about the middle of June with a person who gave his name as Pastorius?

A Yes.

Q And have you since learned that that person was the defendant Dasch, on trial in this case?

A No, I have not learned that.

Q Well, would you tell the Commission, in your own way, as near as you can, what was said by Pastorius or the man who gave that name, as well as yourself, and when was that conversation, first? Do you remember when that conversation was held?

A Yes. I was working on the evening of June 14 on the regular office assignment.

Q Was that a Sunday?

A Sunday evening, yes, sir.

Q Yes. Now, just go ahead and relate to the Commission the conversation as you recall it.

A Well, it was a man that was speaking, and he said that he wanted a record made of the call--I believe that was the first sentence that he gave me--and I asked him what his name was, and he gave me some name I did not understand. I asked him to spell it, which I believed he spelled the last name, and asked him what type of information he wished to give, and he said well, he would not bother with giving it to me.

Then I asked him to come to the office and he said no, he was going to Washington and give the information, and I told him that we had an office in New York, it would not be necessary, and he said no, he wanted to see somebody in Washington first, and he refused to give me his address.

That's about all the information I could get from him.

Q Didn't he give you the nature of the information?

A No, not at all. He did say that he had arrived from Germany. That's all.

Q He said he had arrived from Germany the day before?

A Well, he said he had arrived from Germany, I believe

two days ago, is the way he put it.

Q And did he tell you that he thought the information he had to divulge was of such a character that it should be divulged at Washington rather than the New York Office?

A I don't remember that he stated it that way. He simply did not want to come to the New York office.

Q Did he ask you to advise the Washington office that he was coming down to divulge this information?

A Yes.

Q And did he tell you that he would be down on any particular day?

A He said Thursday or Friday.

Q And didn't he tell you that he thought the information was so important that it should be reported direct to Hoover?

A He said he was going to see Mr. Hoover, yes.

Q Well, didn't he say that he thought it was of such importance that it should be reported direct to Hoover and not to the New York office?

A No, I wouldn't say that. He said he wanted to give it to Mr. Hoover.

Q And declined to give the information to your office in New York?

A That's right.

Q But he knew he was talking to the F.B.I. office?

A I believe so. I don't know whether he did or not.

Q Well, didn't you know from the conversation that he knew he was talking to an F. B. I. agent?

A He might have. I don't know what he thought.

Q Well, didn't you advise him who you were? You did not answer the telephone in the first instance, did you?

A Probably not.

Q Don't you have an operator there in the New York office?

A Yes, sir.

Q And didn't the operator call you and tell you that somebody wanted to speak with an F.B.I. agent? Isn't that the reason you were called?

A My phone rang and I answered it.

Q Well, didn't your operator up there advise you that somebody wanted to speak to an F.B.I. agent?

A No. The operator rings the phone and I answer the phone.

Q And she does not give you any information at all?

A That's right.

Q Was there any doubt in your mind whether the party knew he was talking to an F.B.I. agent?

A I can't answer that. I don't know what he thought.

Q Did you advise the Washington office about the call?

A I did not.

Q Did anybody in the office up there?

A I can't answer that.

Q Did you suggest that anybody advise the Washington office?

A I prepared the information I received in a memorandum.

Q Well, that memorandum you prepared was solely for the New York Office, wasn't it?

A Certainly.

Q And it was not prepared with the idea that anybody would notify the Washington Office?

A Why, certainly, if they cared to.

Q Well, why didn't you see to it that the Washington office was notified of this information?

A I prepared the information in memorandum form for review by my supervisors and their action.

Q But didn't you say in that memorandum that it was prepared solely for office information there in New York?

A I said it was prepared for record of the telephone call.

Colonel Ristine. Mark that.

(Photostatic copy of memorandum of D. F. McWhorter, dated June 14, 1942, was marked for identification Defendant's Exhibit G.)

Questions by Colonel Ristine:

Q I hand you a photostatic document marked "Defendant's Exhibit G" and ask you to state if you can identify that (handing a document to the witness).

A This, I believe, is a photostatic copy of my memorandum.

Colonel Ristine. We offer that memorandum in evidence and would like to have the witness read it into the record, if the Commission please.

The President. Is there any objection?

The Attorney General. No objection.

(Defendant's Exhibit G was received in evidence.)

DEFENDANT'S EXHIBIT G

The Witness (reading). "New York, N.Y., June 14, 1942.

RE: F. D. POSTORIUS

MEMORANDUM FOR THE FILE:

"Please be advised that at 7:51 P.M. on this date, FRANK DANIEL POSTORIUS called this office by telephone, and advised the writer that he had made the call for the purpose of having a record of it, in this office.

"POSTORIUS advised that he had arrived in New York City two days ago from Germany. He would not reveal his present address in the city, and remained uncommunicative concerning any information that he might be able to furnish this office. He stated that he was going to Washington, D. C. on Thursday or Friday of this week, and would talk to Mr. HOOVER or his secretary. He refused to come to this office and report his information and said that he had to see a certain person in Washington, first, but he wanted this office to make a record of his call and to notify our Washington office that he was coming there.

"This memo is being prepared only for the purpose of recording the call made by POSTORIUS.

"Respectfully submitted,

"D. F. McWhorter,

"Special Agent."

Questions by Colonel Ristine:

Q Now, there is not any doubt but that he requested you to notify the Washington Office that he would be down here Thursday or Friday, is there?

A That's right.

Q And you did not notify the Washington Office, did you?

A I personally did not.

The Attorney General. I object. This witness has said exactly what he did. He did his duty. He told his superior. I think all this examination is irrelevant. The memorandum is in. What has happened has been told. This is simply going over and rehashing it. He did his duty. He told his superior. It was not his business to notify anyone.

Questions by Colonel Ristine:

Q Well, why did you put in the last paragraph, "This memo is being prepared only for the purpose of recording the call made by Postorius"?

A I would have to explain that further.

Q Well, that is all right. Explain it.

A Well, in receiving information in our office agents who receive it are requested to make some suggestion as to further investigation, often, and, in my judgment, that information that was furnished there--I could offer no further investigation or no further suggestion for investigation.

Q Don't you think it would have been better if you had suggested in the last paragraph that this matter be communicated to the Washington Office, as requested?

The Attorney General. I object. What has it got to do with this case what this witness thinks would have been better if he had done something else? I object to the question. I think it is perfectly improper.

Colonel Ristine. I think the question is perfectly proper, if the Commission please.

The Attorney General. This witness received a communication and he reported it to his superior. What relevancy to facts has it to ask whether or not he did not think he ought to have done something else? It is not a question of what he thought he ought to have done. I do not think it is a proper question. I think all this is irrelevant, after you get a record of the call. That is the only purpose of this examination. The rest of it is just a waste of time.

Colonel Ristine. I am a little bit surprised that the Attorney General would suggest that I am attempting to waste any time. I certainly think it is pertinent to know about it when a person calls the F.B.I. office in New York and says he has just arrived from Germany and that he has some information that he wants to give to Hoover and asks that person to communicate the fact to the Washington Office that he is going to be here on Thursday or Friday to give that information, and then when the memorandum is prepared, instead of suggesting that that information be forwarded by the New York Office, he says in the memorandum that it is made solely for recording the call in the New York Office.

The President. Well, I think that speaks for itself as an office memorandum.

Colonel Ristine. It does speak for itself, if the Commission please, but I am trying to develop what the reason was for not carrying out the suggestion. It seems obvious to me that the suggestion should have been carried out and the Washington Office should have been notified. Now, if there is

some good reason why it was not done, I would like to have the witness state it.

The President. Ask him that question.

Questions by Colonel Ristine:

Q Will you tell us why you did not in this memorandum suggest that that information be communicated to the Washington Office?

The Attorney General. That was not the question that I think the General had in mind. I think General McCoy wanted to know if there was any good reason why it was not communicated. You have not developed whether it was communicated or not. How do you know it was not?

The President. Ask some direct questions that will bring out the facts that you are anxious to have in the record.

Questions by Colonel Ristine:

Q Did you consider it advisable to communicate that information to the Washington Office?

The Attorney General. I object.

The President. I think that question has been answered by the witness both on the stand and in the memorandum.

Questions by Colonel Ristine:

Q Can you tell the Commission why you did not take steps to see that this information was communicated to the Washington Office?

A I was simply reporting the information, setting it out in a memorandum for action by my supervisors.

Q But in your recommendation in the memorandum you restrict any action on the part of your supervisor by suggesting that it is made solely for the information of the New York

Office.

A That sentence at the last would not restrict the supervisor from taking any action that he thought advisable on it.

Q It certainly suggests that you do not think it advisable that he take further action, doesn't it?

A No, I would not say that.

Q Tell me something. Did the New York office have any information respecting what had been found on the Long Island beach at the time you talked to Pastorius?

A I can't answer that

Q Well, do you know of any information they had respecting that at the time?

A I had no information at that time.

Q You had none.

Colonel Ristine. I think that is all.

The Attorney General. Have you any questions?

Colonel Royall. No questions.

The Attorney General. No questions from me.

The President. Are there any questions from the Commission? There seem to be none. The witness is excused.

Colonel Ristine. We would like to call Special Agent Connelley.

The President. Are you conscious that Mr. Connelley was in the room at the time of your last witness' testimony?

Colonel Ristine. Well, if the Commission please, I believe Mr. Connelley has been in the room during the entire trial.

The President. You still want him under those conditions?

Colonel Ristine. Yes, sir. I would like to call him.

Colonel Munson. Mr. Connelley, you have been sworn to secrecy already, haven't you?

Mr. Connelley. Yes.

Colonel Munson. You swear that the evidence you shall give on the stand shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Connelley. Yes, sir.

EARL J. CONNELLEY

was called as a witness for the defense and testified as follows:

Questions by Colonel Munson:

Q Will you state, please, your full name?

A Earl J. Connelley, Assistant Director of the Federal Bureau of Investigation, Washington, D. C.

DIRECT EXAMINATION

Questions by Colonel Ristine:

Q Mr. Connelley, were you in charge of the proceedings that led up to this trial for the Department of Justice?

A I was for the Federal Bureau of Investigation, Department of Justice.

Q Do you recall when the matter was first turned over to your supervision?

A On Monday, June 15, although I was in the office at the time the case was first delivered into our hands on June 13 by the U. S. Coast Guard.

Q Do you know whether any information had been furnished to the New York Office respecting what had been discovered on the Long Island coast on June 14?

A The material on that was reported to us on Saturday

morning, on June 13, and the material recovered turned over to us by the U. S. Coast Guard.

Q Yes, I understand that, but had any of that information been forwarded to the New York Office on June 14?

A It was turned over to us on June 13, Saturday.

Q You are speaking of the Washington office?

A Material recovered on the beach and the fact that the landing had been made.

Q You are speaking, I believe, about the Washington Office of the F.B.I.?

A No. I was at New York at that time.

Q Oh, I misunderstood you. I thought you were in the Washington office.

A No; I was in New York at the time.

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10.20 am

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Wilfong
fls Cincinnati
10:20

Q Was the information given to the various agents in the New York office?

A Only such agents as were concerned with the investigation.

Q Was McWhorter concerned with the investigation?

A He was not.

Q The information was not given to him?

A It was not.

Q Was the memorandum which Mr. McWhorter prepared, of date June 14, 1942, marked Defense Exhibit G, referred to you in the New York office?

A It was not; and the reason I can furnish you if you require it.

Q You were in charge of the case from June 12, I believe?

A From June 13 I was in possession of all the facts that concerned the case at that time, and up to that time there was no identification of any person of that name and no medium by which he could be identified with the case at that time.

Q Was the information contained in this memorandum communicated to the Washington office?

A Not that I know of, sir.

Colonel Ristine. I think that is all.

Colonel Royall. We have no questions.

The President. The witness is excused.

(The witness left the stand.)

Colonel Royall. If the Commission please, I understand that the defendant Dasch does not desire at this time to offer

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any additional evidence. Therefore I desire to examine, under oath, the defendant Burger.

The President. Defendant Burger, it is my duty to tell you that you have a legal right now to do any one of several things, just as you choose. First, if you want to do so, you may be sworn as a witness and testify under oath in this case like any other witness; or, second, if you do not want to be sworn as a witness, you may, without being sworn, say anything about the case to the Commission that you desire; that is, make what is called an unsworn statement; or you may, if you wish, file a written statement with the Commission or, third, you may, if you wish, keep silent and say nothing at all. If you do take the witness stand and fail to deny or satisfactorily explain any of the alleged wrongful acts about which you testify and about which any evidence has been presented against you here, such failure on your part may be commented on to the Commission by the prosecution when the argument to the Commission is presented at the end of the trial, and the Commission can take it into consideration in deciding whether you are guilty or innocent of the offenses.

Do you understand fully all that I have said to you so far?

The Defendant Burger. I do, sir.

The President. Knowing these various rights, which will you do?

The Defendant Burger. I would like to be sworn as a witness, sir.

The President. In your own behalf?

The Defendant Burger. Yes, sir.

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The President. Have you counseled with Colonel Royall and defense counsel in regard to your action?

The Defendant Burger. Yes, sir.

The President. Take the stand, please.

Colonel Munson. You swear that the evidence you shall now give in the case on hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

The Defendant Burger. I do, sir.

ERNEST PETER BURGER

was called as a witness for the defense and testified as follows:

Colonel Munson. State your full name.

The Witness. Ernest Peter Burger.

Colonel Munson. You are one of the accused in this case?

The Witness. Yes, sir.

DIRECT EXAMINATION

Questions by Colonel Royall:

Q Where were you born?

A In Augsburg, Germany.

Q When?

A The first of September, 1906.

Q I believe that there has been introduced in evidence a statement which you gave the F.B.I., about 64 pages long; is that correct?

A Yes, sir.

Q You gave that statement freely?

A I did.

Q Voluntarily?

A Yes, sir.

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Q And, so far as you now recall it, is it correct in every particular?

A It is absolutely correct, sir.

Q Have you since the giving of that statement desired to change it in any manner?

A I do not change it.

Q I believe you gave a short supplemental statement which has not been put in evidence. That does not contradict the first statement in any respect, does it?

A It was not a supplementary statement, sir; it was a condensation of the first statement.

Q Does it contradict the first statement in any way?

A It does not; I do not think so.

Q You do not think it does, anyway?

A No, sir.

Q Since you have given such a full statement and it has been put in evidence, please make your answers to my questions as short as you can, to be accurate.

A Yes, sir.

Q It is unnecessary to take up the time of the Commission to go into great detail.

At the beginning of this case you were willing to go on the stand personally, were you not?

A Yes, sir.

Q And your lawyers advised you, on account of the other defendants, not to take the stand?

A That I should take the stand later.

Q You lived in Germany how long, Pete?

A Up to 1927.

Q You came to America then?

5w

A February, 1927.

Q And stayed here until 1933?

A Yes.

Q What, in general, was your occupation during that period here?

A I worked generally as a tool and die maker.

Q Did you obtain your final citizenship papers while in America?

A I did, sir.

Q While you were in America were you a member of any military organization?

A I was a member of the National Guard in Michigan and, after that, a member of the National Guard in Wisconsin.

Q Did you receive an honorable discharge from those bodies?

A I did.

Q Where are those honorable discharges?

A In the possession of the F.B.I.

Q Did you have them with you when you were apprehended?

A I had them with me.

Q Did you receive any button or insignia of any kind?

A The sharpshooter's insignia.

Q Is that also with the F.B.I.?

A I suppose so, sir.

Q It was with you when you were apprehended?

A Yes, sir.

Q Did you have a special letter from any commanding officer?

A I did, sir.

6w

Q Was that also with you?

A Yes, sir.

Q I believe you went to Germany in 1933. That was long before the war?

A Before this war; yes, sir.

Q You went there, I believe you said in your statement, because you were having difficulty during the depression in finding work, and your family sent you a ticket to come; is that right?

A Yes.

Q While you were in Germany did you take any affirmative action to renounce your American citizenship, except in connection with your joining the armed forces?

A I did not, sir.

Q You did join the armed forces in Germany?

A I joined the armed forces when I was drawn in 1941.

Q Did you participate in any fighting in Germany?

A Since 1933?

Q Yes.

A No.

Q Did you participate at any time?

A Before I came over to the United States I was a member of the volunteer corps, against Poland.

Q That was prior to 1927?

A Yes.

Q Did you receive any decorations before you came to America, from the German government?

A Yes, sir. I had two decorations for bravery in action.

7w

Q What became of those?

A After I had difficulties with the Gestapo they took them in and I was not allowed to wear them any more.

Q Before you came to America, in 1923 or about that date, were you a member of the Nazi Party?

A When?

Q When did you join the Nazi Party?

A February, 1923, up to 1925.

Q You were what was called one of the old Storm Troopers; is that correct?

A Yes.

Q Upon your return to Germany in 1933 did you rejoin the Nazi Party?

A I did, sir, in 1933, when I came back.

Q What connection, if any, did you have with Roehm? State briefly what your connection was with Roehm and what happened to Roehm.

A I came in the fall of 1933 to the High Command of the Storm Troopers, and at that time the chief of staff was Ernest Roehm. At that time I had a position as Aide de Camp and remained on the staff up to June of 1934, when he was killed.

Q At that time were large numbers of the old Storm Troopers killed?

A Yes, sir.

Q How did you escape?

A I happened to be assigned to the Chief of the Medical Corps at that time, and he was the only one who had the confidence of Adolf Hitler.

8w

Q Who was he?

A Dr. Ketterer.

Q How many of the leaders and their friends were killed at the time of the Roehm purge?

A Around three thousand.

Q From that time on what was the feeling between the old Storm Troopers and the newer members of the Nazi Party?

A From that time on the entire course of the party changed.

Q The entire course?

A Yes, sir. The original program was not followed any more. Our former enemies got into the party, secured jobs, and they formed a very strong opposition against anyone who had belonged to the Storm Troopers before 1933.

Q How were the old Storm Troopers treated by the newer members of the party?

A You see, we were more or less soldiers, either trained soldiers or trained by street battles and all that, and our opposition were politicians, people with more or less ideas for business, making personal profits. We never thought of that. So, of course, when we realized that, we started to fight them and naturally were not strong enough, and they put us in jail and removed most of us.

Q When was Roehm killed?

A On the 30th of June, 1934.

Q Shortly after that time did you form any intention to get out of Germany?

A After Roehm was killed, most of the old Storm Troopers tried to get out of Germany.

9w

Q Was it easy for them to get out of Germany?

A It was easy to get out of Germany illegally, but if anyone disappeared just by going over the border it was just too bad for the folks at home. So anyone who wanted to go had to find a legal way to get out of Germany, and that was impossible.

Q Did you make an effort, following the purge, to get out of Germany?

A I did, sir.

Q I believe you have covered that pretty fully in your statement, as to your efforts, have you not?

A Yes.

Q You referred to Miss Eva Schultz and Hans Hausofer?

A Yes.

Q After you failed in your efforts to get out of Germany, were charges made against you by the Gestapo?

A Yes, in 1939 and 1940, after the war started.

Q What was the relation between the Gestapo and the Nazi Party? They are members of the party, but what is their exact relation?

A They are not exactly members of the party.

Q What are they?

A May I explain that?

Q Yes. I think we would all like to know that.

A It is not so very easy. Before Roehm was killed, Himmler was below Roehm; Himmler was just the chief of the Schutz Staffel, or the S.S., which was a part of the Storm Troopers. After Roehm was killed, Himmler with his Schutz Staffel were separated from the Storm Troopers, and built up

10w

as a police guard, a police force, as a secret police; and that was the time when the Gestapo originated. Finally Himmler was made Chief of Police, of the secret police, also of the uniformed police, and his right hand man at that time was Heydrich, and he organized and built up the Gestapo as it is now.

Q Pete, were any charges made against you by the Gestapo?

A About the outbreak of the war, when I was in Poland, I got in difficulties with the Gestapo, and at first they didn't make any charges, and finally they gave my case over to the Justice department and put up a charge of falsification of papers.

Q Was there any basis for that charge?

A There was no basis whatever. I was arrested on the same day. When I reported to see the governor of the state, in the morning, in the evening I was arrested.

Attig fls
10:40 a m

ol
Attig
fls.
Wilfong
10:40am.

Q Were the charges investigated on several occasions?

A They were, four times. I had four times a trial in court, and four times it was dropped. The charge put up against me by the Gestapo--that is a certificate where the reason is pointed out why I am in concentration camp. It said because I injured gravely the reputation of the Schutz Staffel and every way undermined the confidence of people in state and party.

Q Notwithstanding those charges being investigated and found groundless, did they continue to arrest you?

A Well, they kept me 17 months.

Q Where were you exactly during those 17 months?

A First I was in the jail in Poland; after that they put me in the cellar of the headquarters of the Gestapo in Berlin.

Q Do you know about how long you stayed in that cellar?

A About three months; then they took me over to the Justice Department--delivered the whole case to the Justice Department--and they put me five weeks in prison and set me free--gave up the charge, as I told you--the first trial--and dropped it. But the Gestapo did not give me free and put me in the--in concentration one year.

Q Where was that?

A I was one year in a building in Berlin.

Q That altogether was 17 months?

A 17 months.

Q I believe you have covered that pretty well in your statement, but tell us briefly how you were treated during that time, Pete, by the Gestapo.

o2

A Well, I don't think I can say anything about that, sir.

Q You have covered that in your statement?

A Partly I have.

Q Were you treated badly?

A (The witness did not answer.)

The President. I did not hear any answer.

Colonel Royall. He did not answer; he just said he did not want to say. I think it will be apparent why he does not in a few minutes.

The Witness. May I add something to that? It was not the treatment of myself what really hurt, but what they did to my wife.

Questions by Colonel Royall:

Q Well, I am coming to that.

A That was it.

Q You could stand your treatment, could you?

A I could stand it.

Q What did they do about your wife?

A They at first knew that my wife expected a baby. They had her come down to headquarters several times and they told her that I stole some money in a town at Vienna; that I expected eight years of chain gang; and that she should get a divorce. Then she answered that I have never been in Vienna.

Q Had you ever been in Vienna?

A I never was in Vienna; and finally it came out at the trial that I had never anything to do with money. My job is journalism.

Q Go ahead with your story.

A She refused to get a divorce. Naturally she had a

o3

breakdown, and they took her to the hospital. They had to operate on her, and she had this--I think you call it a miscarriage.

They kept on telling her that she had to get a divorce as a German woman because I was not the man she should go around with or should be married to, and told her she should bring my uniform down. I was in civilian clothes when I was arrested. They told her she should bring my uniform down to Gestapo headquarters, so I should wear it, and they could take off my--rip off my epaulets. She refused that also.

After a while they made we write a farewell letter to my wife, telling her that I never come back, and so on; stopped my bank account. That is all.

Q Did they take away your epaulets and decorations?

A They did.

Q What effect did that treatment have on your determination to get out of Germany, Pete?

A Well, that is very clear, I think.

Q I am sure it is clear, but what effect did it have on your intention to get out of Germany?

A Well, you see, when I had the reason--when my reason to get out of Germany before I had difficulties with the Gestapo was political, just a change of the party from the original program, an opinion which I had not alone, but had thousands of my storm troopers--from that time on the reason to get out of Germany was personal, not only for me but also for my wife.

Q Did you from that time on seek a way to get out of Germany?

o4

A Yes, I did.

Q What did you do in an effort to get out of Germany after you were released from prison?

A That was the 22nd of July, 1941--last year. I immediately went up to headquarters--to headquarters of the German Army--and went to the Intelligence Department and volunteered for any job or anything to get out of Germany.

Q Did you have any success with that?

A I did.

Q Where did you get?

A Well, first they had in mind for me to go to the northern part of Ireland. That was dismissed. I did not hear anything from August, 1941, till February or March this year. Then I had a letter to come up to Lieutenant Kappe. He explained to me that my wish would be fulfilled. That was all he said--and that my transfer from the regular troop--regular army station--to a special formation was on its way.

Q Of course, you told the Intelligence and Lieutenant Kappe you wanted to do something for Germany?

A Well, I volunteered to do anything in order to, as I told them, rehabilitate myself.

Q Why did you tell them that?

A Well, you see, my idea was not to get out of Germany, as I told you before, illegally. Besides that, it would have been a hard proposition to get anywhere at the time last year. There was nowhere in Europe to go. Therefore, I told him, of course, that he could--how do you say? Well, give me any order.

Q Did you know of any other way to get out of Germany?

A I didn't know of any other way with the exception of

o5

getting to Switzerland on the, you know, under--

Q Underground?

A Underground way, but I couldn't do that, because I had my folks there. I had five people in Germany.

Q Why would the method you did adopt have been better for your people than going to Switzerland?

A If I would have gone to Switzerland, I would have to disappear. There is quite a number of people going to Switzerland, and it is quite easy. That would have been illegal. I couldn't have taken my parents along, or my folks; that would have been impossible. I couldn't have taken my wife along. As soon as I would have disappeared--and at that time I was in the army--they would have immediately taken my folks; that is understood.

Q But if you went out legally, it would not affect your folks?

A No.

Q You went to this sabotage school as a result of your conversation with Lieutenant Kappe?

A I did.

Q Let me ask you one or two things about what they taught these boys at the sabotage school. Tell us just as accurately as you can without too much detail. Were you given any instructions about hurting anybody or harming anybody?

A No; on the contrary; I stated that in my statement already.

Q I believe you have covered all that in your statement, have you not?

A I have.

o6

Q I shall not go over that again; there is no necessity for that.

Did you on one or two occasions express a little hostility toward the Gestapo?

A That is possible.

Q You tried not to?

A Well, it was at one occasion officially--or more or less officially--explained by Lieutenant Kappe to a small group of boys that I was in camp; and the second instance, it was explained by George in the room of Herbert Haupt, and I think Henry was along and some of the boys there, that I was in concentration camp. Naturally after that several of the boys came up to me when we were walking, or something, and asked questions, and it is possible--I don't remember it--but it is very possible that I made one or another remark.

Q Did you find after the boys learned that you were in concentration camp that they asked you questions and seemed to be distrustful of you?

A Well, of course, I felt that it made a little difference, because at one or other occasion I was asked, "How come you take an order or you go on a mission like this, as dangerous as this is, if the Gestapo put you through all this?"

I remember that I told one that I not consider the Gestapo and Germany being the same thing.

Q Pete, before you left Germany did you communicate in any manner with your wife?

A I did. I communicated with my wife. That is, I wrote a letter to my wife one hour, or about one hour, before I left the submarine out there.

o7

Q Before you left Germany?

A Before I left the submarine, before I landed in Amagansett.

Question by the President:

Q Pardon me; what was your last answer? Before you left where?

A Before I left the submarine on landing here, in order to land on the beach.

Questions by Colonel Royall:

Q I was coming to that. But did you communicate with her before you left Germany?

A Yes, I did.

Q How did you communicate with her? Did you go to see her?

A Before we left Berlin, we had a vacation. We had a vacation from the first of May to the twelfth or thirteenth of May, I believe. The twelfth of May, I think. But I wrote her several letters.

Q Did you give her any password or means of identification?

A I did.

Q When did you do that?

A I did that personally when I was home on vacation.

Q Most of the defendants--I think all of them--have testified that they were disturbed about the gold certificates. Were you disturbed about them?

A Well, I wouldn't say I was disturbed; I was more or less disappointed--disappointed not for the reason that there would be a possible chance of being caught, but for the reason

o8

that I or any one of us could be punished for anything he didn't have any fault, you know--what he didn't do anything; it wasn't his fault that he had these gold certificates; and still, I believe, if they would have apprehended him with those gold certificates and there would have been trouble, they couldn't do anything about it. I couldn't do anything about it either. It wasn't, as I stated--I want to point that out--it wasn't being afraid of being caught, but it was the idea of being punished for something somebody else was responsible for, see? That is only one of the chain of points which proved that Lieutenant Kappe made his own business.

Q I believe one of the agents has testified that you told about this, but I believe I will ask you about it anyhow. Before you left Germany, what was told to you about going back into a camp if your mission was successful--even if your mission was successful? What did they tell you?

A May I explain that?

Q Yes, you may explain that.

A When I was in apprehension of the Gestapo, I met three agents of the German Intelligence which were also arrested, one of Lisbon, one of France, and there was no charge against them; they only were kept; and they told me quite a bit of their experiences. They knew too much.

Q That was the reason they were kept?

A That was the reason that one was kept in chains. Anyway, when I came to Kappe towards the end of our course, I said to him--and I think several of the boys were present at that time--"Listen"--Walter Kappe was his name--"When we come back, no matter if it is successful or not, we learned quite a

o9

bit about explosives and using them. Don't you think the reaction of the Gestapo would be kind of problematical?"

Then he smiled and explained very freely, still smiling, "Why, don't think that you could go home. We put you through concentration camp and make a good citizen out of you."

Q So, he told you that even if you came back, you would have to go back to a concentration camp?

A Yes, in order to become a good citizen again.

May I point out at this time that being in concentration camp is not in Germany--not considered as a penance but as a matter--a way of education?

Q That is what they say?

A Yes.

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Q You do not like that education, do you, Pete?

A I don't think anyone likes it.

Q Now, I believe you described what was done when you came over here in some detail, and I won't go into that, but did you use your own name?

A I did.

Q Throughout?

A I did.

Q Did you ever use any alias of any kind? Any other name?

A No. The only thing I used was when I registered at the hotel, naturally I couldn't put down an address, because I didn't have any, so I put down a street I used to live in in Detroit.

Q Where you formerly lived in Detroit?

A Yes.

Q Pete, did you have on your person when you came back here any German writing of any kind?

A Yes.

Q Did you try to dispose of it?

A No.

Q What did you have?

A Well, I had several things. I had several things. For instance, I had--

Q Do you recall some of them?

A I had all the formulas of the explosives, and I am sorry I lost that piece of paper out in Amagansett; and I had some receipts--German receipts of the money I sent--the last money I sent to my wife just before I left Germany, and a photo-

graph of my wife with German prints on, I think. That's all.

Q Were they found by the F.B.I.?

A Certainly.

Q I believe you said you did not attempt to dispose of or conceal any of them?

A That's right.

Q Did you register at the Governor Clinton Hotel in your own name?

A I did, sir.

Q Did you make any effort to dispose of the money that you brought?

A No.

Q Did you keep it right there in your room?

A Yes.

Q When did you first know definitely that anybody else in your group might be planning to expose the plan or get out of the plan?

A On Saturday, 13th--June 13th.

Q Now, when was that with relation to your landing?

A That was in the evening.

Q I believe you have testified that you did have some conversation, which is covered in your statement, over in Europe?

A Yes.

Q But that is the first time you knew definitely?

A That is the first time.

Q Who was the person that you learned then for the first time might not be willing to go along with this plan?

A George Dasch.

3b

Q George Dasch. Where were you when he gave that information?

A We were in the Coral Room of the Hotel Governor Clinton, New York.

Q Had you done anything up to that time about getting away from the others or reporting anything except what you describe as having done on the beach, which I won't go into now? Had you done anything? Did you mention it to any of the others?

A No.

Q Why?

A Well, because when I was in Germany I had certainly made plans. The first plan was from the time, as I explained before--from the time, 1934, to get out of Germany, to get out legally. I succeeded in that. The second point for me was very clearly to make it impossible to carry out the orders, and the way I did that was to expose all these different explosives, these boxes, so we could not use them.

Q You refer to dragging your bag across the beach?

A Yes.

Q I believe you dropped some of the articles before you ever saw the Coast Guard?

A Yes.

Q That is in your statement. Go ahead.

A That was the second plan I could really consider before I landed in the United States. As to what to do after the landing, I couldn't plan anything, because I did not know the conditions over here.

Q Did you have any fear of the Gestapo?

4b

A Yes, and I still have.

Q Did you have any fear that what these other boys knew about your wanting to get out and expose it would get to the Gestapo? Just tell what you thought. I do not want to lead you.

A I felt that they did not trust me exactly.

Q You said that you had a fear of the Gestapo. I wish you would tell the Commission and all of us what information you had as to the Gestapo in this country--what you heard.

2 A As I stated already, when I was arrested by the Gestapo I overheard a conversation between two high leaders of the Gestapo that they had their men in the English Intelligence Service and also in the Secret Service of the United States. That is one point.

The other point is that Lieutenant Kappe told me that they had their men over here, that they knew exactly what was going on in the offices of the Secret Service, in the F.B.I.

I asked him, "What is the organization we have to watch out for?" He says, "The F.B.I."

He knew that there is a great part--I think he told me 90 per cent college men--and I also knew or heard of the Seibold case, which confirmed my conviction.

Q That was an agent who came to America?

A Was sent over by Heydrich, chief of the Gestapo.

Q And what happened to him? Did the Gestapo get him?

A He was a Gestapo. He was a member of the Gestapo.

Q The F.B.I. got him?

A The F.B.I. got him, and he wasn't alone. There

5b

were about thirty of them.

Q You had heard of that, had you?

A Sure, I heard of it, and George Dasch knows it, too, because he studied the records over there.

Q Now, you say you were afraid and still are afraid of the Gestapo. Was that the reason you did not do anything immediately?

A That was the reason why we did not do it, or why I did not do anything in New York--in fact, I told George Dasch on account of that that it would be impossible and unwise--foolish--to get in touch with anyone in New York.

Q But did he get in touch with someone in New York?

A He telephoned.

Q Now, I believe you waited in New York and George told you he was going to Washington; is that correct?

A That's right.

Q Why didn't you report it yourself, instead of waiting for George to go to Washington?

A You see, there was no reason to hurry, in the first place, in my opinion. I had pointed out a way to find the explosives, so, first of all, there was no danger--that is my personal opinion--there was no danger to hurry up. And, second, in the evening of the very day when we landed George Dasch explained things to me--that is, we got talking and I knew what it was all about. Next morning he came clear and opened out with his idea, said there was no reason for me to do anything. He said he would take care of everything and, in fact, he did.

Q And from that time on you relied on George to take

care of you?

A I did.

Q Do you know why he waited from Saturday, when he first told it to you, or Sunday, when he first called up, until Thursday or Friday to go down to Washington?

A He wasn't in--I don't think he was in a position to go anywhere, to make anywhere a serious statement.

Q Do you know why he waited?

A Because his nerves went--they were not the way--he had more or less a nervous breakdown.

Q You waited for him to come to Washington; is that right?

A I left it up to him. He was more or less the man in charge.

Q Now, Pete, I believe George wrote you from Washington, didn't he?

A Yes, he did.

Q I believe that letter is in evidence.

A He wrote one letter before he left.

Q Did you get a letter written from Washington or was the letter you got written in--

A In New York.

Q In New York. He told you he had gone to Washington?

A Yes.

Q Did you know he had gone to Washington to report it to the F.B.I.?

A I did.

Q He told you that?

A Yes.

Q Did you still remain there at the hotel?

A I did.

Q Registered under your own name?

A I did.

Q Did you make any effort of any kind to leave?

A No.

Q I believe your statement shows you were there in the room when they came?

A Yes.

Q When the F.B.I. came, I believe it has been testified, you gave them a statement. Did you tell them everything they asked you?

A Yes.

Q I believe you gave that statement principally to Mr. Lanman, is that right, who has been on the stand?

A I did, yes.

Q Did you tell him fully, freely, and frankly all the facts?

A Yes.

Q Just as you have told them here in part?

A Yes.

Q Did you give them all the information that they asked--

A Yes.

Q (continuing)--about the submarines and everything in the method of operation?

A As far as I knew, yes.

Q You gave that the first time they asked you in your first statement?

A Yes.

Q Did you make any false statements to them at all at the outset?

A No.

Q I believe Mr. Lanman has said, and it is a fact, is it not, that when you made that statement you did not know whether they had found the articles on the beach or not?

A Pardon me. May I go back to the other question?

Q Yes.

A You asked me if I held anything back or made a false statement. To a certain extent I did.

Q What was that?

A Mr. Lanman asked me if I had any relatives in the United States, and I said no, but there is a distant relative, some old lady of 75 years, I think she is, old, and they call it over here second cousin.

Q Well, is that the only thing in your statement you made to him that was not true?

A That is the only thing.

Q Pete, did you know at the time you made that statement whether or not they had found the various articles on the beach?

A I did not.

Q Did you tell them about dragging the sand?

A Yes, I did.

Q Did you tell them about leaving the cigarettes there?

A I did.

Q Did you tell them about the Coast Guardsman?

A Yes; everything, I told them.

Q You told them about these articles that they later

found there?

A Yes.

Q Let me ask you one or two questions about these other boys. Tell me what your opinion as of Heinck's ability to carry out any plan without some direction from somebody. What do you think about Heinck?

A I do not know how far my opinion is of any importance, but I do not believe that Heinck--in fact, he refused, for instance, to get the boxes.

The Attorney General. I do not think it is proper to have one prisoner comment on the other.

Colonel Royall. I won't do it if there is any objection.

The Attorney General. I do not think it is right.

Questions by Colonel Royall:

Q What have you observed of Heinck? Do not answer this question until the Attorney General objects, because I think it is competent to ask you that, but he may want to object. What do you think of Heinck? What did you observe of Heinck--I will put it that way--as to initiative and his ability to go ahead without direction from anybody?

A None. He did not have any initiative.

Q Is there any other single member of this group you have observed that about?

A Well, the second group I can't talk--I do not know anything.

Q You did not have an opportunity to observe Thiel, did you?

A No, not after we landed, you see.

Q Pete, your statement is full and complete. I do not

want to repeat anything, but is there anything that I have not asked you about that, even though it is contained in your statement, you want to say anything about before I turn you over for cross-examination?

A No, sir, I can't think of anything now.

Q And you still do not want to correct your statement as you now recollect it?

A I can't correct it, because it is true.

Q There is one thing I want to ask you about. I believe somewhere in your statement some information was given about some other submarine probably landing in this country. That is not clear to me. You told the F.B.I. about some submarine landing somewhere on the coast?

A Yes. There was a conversation I overheard at Lorient between two navy officers, and they were talking about two naval experts who left, I think, the previous day for New Jersey in order to get to New York.

Q Now, why didn't you report that to the F.B.I. when you got here, so that they could apprehend them? Did you have any reason for that?

A I did not think of that. I remembered that when I talked to Mr. Lanman. I did not think of that before.

Q You did not think of that before. You were thinking principally, or you were thinking in part, of getting to America and getting away?

A That's right.

Colonel Royall. That is all we care to ask him on direct examination, unless he has something to add.

CROSS EXAMINATION

Questions by the Attorney General:

Q Pete, you joined the Nazi Party in 1923 and remained until 1935?

A Yes. Pardon me, sir, I wanted to correct that. It is not true. I joined the Nazi Party in February 1923--

Q In Germany?

A Yes, and remained in the Nazi Party until November, 1923, when I took part in the original Beer Hall Putsch, but after this, you see, the party did not exist any more. The police prohibited the party. So at the same time, naturally, my membership expired, because the police closed it up, you might say, and the party was recreated in 1925. So in fact I only did belong to the party from 1923, February, until November, when it was prohibited.

Q When did you join again?

A 1933, when I came back.

Q When you came back to Germany?

A Yes.

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Q Have you been a member ever since then? You are a member now?

A Yes. I was officially dismissed from the party because of my difficulty with the Gestapo, and at the same time I had to sign a written protest.

Q The written protest, as I remember, was so that you could still be under the regulation of the Party?

A Yes.

Q Did the Party have a uniform?

A Yes.

Q Did you wear it?

A Yes.

Q When you referred to the epaulets and the insignia which the Gestapo took off you, were they the epaulets and the insignia of the Nazi Party?

A No, sir.

Q Were they the epaulets of your uniform as a soldier?

A No; it is different.

Q What were they?

A You see, due to the fact that I was a member of this original organization I had the highest decoration of the Party, and when I had trouble with the Gestapo they took this decoration away. At the same time they prohibited the wearing of two other decorations I had, which had nothing to do with the party, but they were decorations for bravery in battle. They had nothing to do with the party at all; but still it was prohibited.

Q What were the epaulets?

A My party uniform.

2w

Q The Nazi uniform?

A Yes, sir.

Q I was not sure what you meant. The other seven defendants were all at the camp or school for sabotage, were they not?

A Yes.

Q Had you known Walter Kappe before you saw him over there?

A Before I saw him at school, you mean?

Q Yes.

A Yes; I saw him when I went up to headquarters.

Q Had you known him in this country?

A No, sir.

Q Had you heard of him when you were in America?

A No, sir.

Q Never heard of him before you went over?

A No.

Q Did Kappe say anything about any of his friends in America, to you?

A When do you mean?

Q Any time did he ever talk about any friends he had in the United States?

A No, sir.

Q He did not give you any names of friends he had here?

A No. On the contrary, he told me--in fact, he told all of us, and I heard it said--that we should never mention his name over here.

Q Did he say whether he was coming over here or not?

3w

A Yes.

Q Did he tell you that?

A Yes.

Q Do you know why he gave you that information?

A No.

Q Were you to meet him when he came over?

A No. I was to put up an ad., advertising in the paper. I can't express myself in English.

Q You were to put an advertisement in the newspaper; is that right?

A Yes, sir.

Q In the Chicago Tribune?

A Yes.

Q When were you to put it in?

A May I explain that? Reinhold Barth wanted to come over, and Kappe said in a more or less general way that he wanted to come over later, but he did not state when.

Q Did Reinhold Barth state when he, Barth, wanted to come?

A Yes. He told me personally that he wanted to come over in September.

Q September, 1942, of course?

A Yes.

Q Who was Barth going to bring with him? Was he going to bring Swenson?

A No.

Q Who was he going to bring?

A He didn't tell me that he wanted to bring anyone, but he mentioned that he wanted to bring another group with him.

4w

Q Was he coming from Lorient, too?

A He didn't say that.

Q What was the arrangement as to the advertisement?

A Reinhold Barth told me that I should, on the first and the 15th.

Q The first or 15th of what?

A Of the month of August, as soon as I had established a front, my identity in Chicago, I should put an ad. in the Chicago Tribune as a commercial artist.

Q What was that ad. supposed to show?

A That would mean that we established this front, that we built up an identity.

Q Was that to be a communication to Barth and Kappe that you had established your front in America? Is that right?

A Yes.

Q How was it to be worded?

A There was nothing said about that.

Q Was any arrangement made by you to put any ad. in if you had not been able to establish a front?

A No.

Q Or if you had gotten into trouble or were under suspicion?

A No.

Q What was to be put in on the 15th?

A The same thing.

Q Either the first or the 15th?

A Yes.

Q Was it just one advertisement that you were to put in, or were there going to be several advertisements?

A It was just an advertisement.

5w

Q One advertisement?

A No, not one advertisement. I suppose I should run it regularly.

Q For how long?

A It was not told me.

Q Was it to be a week or two weeks? Did you get any impression as to the length of time?

A I suppose I should have put it in there repeatedly.

Q For how long; do you remember?

A I don't know for how long.

Q How were they going to get the Tribune in Germany?

A They had quite a number of American papers.

Q Do you know how they were going to get the Tribune in August?

A I don't know.

Q Was anything said about radio?

A No, sir.

Q Nothing was said about that?

A No, sir.

Q Who was to put the advertisement in? Were you to put it in, you personally?

A Yes.

Q How about for the other group?

A I don't know anything about the other group.

Q That advertisement meant that your group had established a front?

A No; that I had established a front.

Q What kind of a front did he mean?

A That I had established a business.

6w

Q Your orders were to establish some sort of business?

A As a commercial artist, and the place where I lived.

Q In Chicago?

A Yes.

Q So your orders were to establish it in Chicago?

A Yes.

Q Was that from Kappe or Barth?

A That was Barth.

Q You each had a personality story, did you not?

A Yes.

Q Some of these boys said, I think, that they were given other names, false names?

A Yes.

Q And your instructions were that you were to use your own name?

A That was not my instruction.

Q It was understood that you were to use your own name?

A That was my own decision.

Q Was it approved by Kappe?

A It was finally approved, sir.

Q What reasons did you give for using your own name?

A I told him that I had papers.

Q A passport?

A The passport I didn't bring along at all.

Q You had a passport at the camp?

A No; I had a passport when I left the United States.

Q I understand that; but did you have it at the camp?

A No, sir.

The Attorney General. I will ask the reporter to mark

7w

this document for identification.

(A citizenship document of Burger was marked P-266 for identification.)

Questions by the Attorney General:

Q Is this P-266 your passport?

A No, sir.

Q Oh. I beg your pardon. That is your citizenship paper. You had that with you?

A Yes; I had it with me.

Q And the plan was finally approved that you were going to use your own name?

A Yes, sir.

Q On account of this citizenship paper?

A Not on account of it, but because I refused to take any other name.

Q I understand that; but did you not say that since you had a citizenship paper here, it would be more convenient to use your name?

A I told him that.

Q What did they do?

A They took out the stamp where it said "Passport issued."

Q The stamp said "Passport issued"?

A Yes.

Q Why did they take that out?

A Because I was supposed to tell anyone who asked me that I did not leave the United States.

Q And this red ink (indicating) is where that stamp was erased?

A I imagine so; yes.

8w

(Citizenship paper of Burger, previously marked P-266 for identification, was received in evidence.)

Q So that the final plan that you and Kappe agreed to was that you were to use this citizenship paper which had been altered so as to show that you never went out of the United States?

A Yes.

Q And you were to use your own name?

A Yes, sir.

Q We have heard a great deal about this secret writing. Did Kappe talk to you about that at all?

A He talked to all of us about the secret writing.

Q What did he say it was to be used for?

A For communication between ourselves in the United States.

Q Did he say what kind of communication?

A He said, first of all--he told us that we should not write unless absolutely necessary, and he said if we should write, we should only write where to meet.

Q What about the names and addresses on the handkerchiefs? What did Kappe say about that?

A He didn't say anything to us, or to the members of the groups. In fact, I myself knew about the handkerchief on Sunday after we landed here.

Q Who told you about it?

A George.

Q What did George say to you about it?

A He told me that his handkerchief was important, that he had some important notes on it.

9w

Q Did he say what the names were to be used for?

A He didn't tell me that there were names on. In fact, I was asked about it and I explained that there was a handkerchief with some writing on, but I said that I did not know if the handkerchiefs contained formulas for the explosives or what it was.

Q Did George show it to you?

A No.

Q He told you about it?

A Yes.

Q Did you not ask him what it was to be used for?

A No, sir.

Q What, exactly, did he say? He said it was an important handkerchief and then did not say any more?

A He told me on Sunday morning that besides his statement he had to make in Washington, he also had a handkerchief to show.

Q But you did not ask him anything about it then?

A No, sir.

Q Now, Pete,--

A Pardon me. He told me that this handkerchief would be important because it contained secret writing.

Q But you did not ask him anything when he said that?

A I was afraid that he would explain that. It was very hard to ask him anything.

Q And you did not ask him?

A I didn't ask him. I didn't have a chance.

Q When you got back to Germany this last time you went into the army? You were in the army?

10w

A After I came out from the Gestapo.

Q You were doing some kind of military police work?

A No. I was in the prisoners' camp as a guard, as a soldier.

Q You were a guard of prisoners in the camp?

A Yes.

Q What kind of an oath did you take? Did you take any oath when you went into the army?

A Yes.

Q What oath was it, if you can repeat the oath?

A Allegiance to Adolf Hitler as the highest commander of the army.

Q It was an oath of allegiance to Hitler?

A As the highest commander.

Q Did you take any other oath when you were in Germany? Did you take any oath when you went down to the camp?

A To what camp--to the school?

Q To the sabotage camp.

A No, sir.

Q You did not take any oath then?

A No, sir.

Q You signed a contract?

A Yes.

Q Did you see it? Did you see what was in it?

A Yes.

Q What did the contract say?

A The contract consisted of, I believe, three typewritten pages, and one page consisted of all the penalties which came due when the man who signs the contract ever says anything about it. That consisted of one page.

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Q Did the contract say what you were doing?

A No, sir.

Q Did it say whether you belonged to the army?

A Yes. It was a contract given by the High Command of the German Army.

Q The contracts were all alike, were they?

A No; they were all different.

Q You are speaking now of your own contract?

A Yes.

Q You do not know what Haupt's contract was, do you?

A No, sir.

Q Do you know anything about any of the other contracts?

A No, sir. I only know what they have told me.

Q Your contract was with the High Command?

A Yes, sir, absolutely, sir.

Q Do you remember how the uniforms were issued to you?

A Yes; I remember.

Q Where did you get yours?

A In Berlin at a school which was used as temporary quarters for the navy infantry.

Q Were those navy uniforms?

A Fatigue uniforms.

Q You went down there. Did you have to give any receipt for them?

A No.

Q They just issued them to you?

A Yes.

Q What did they issue -- pants, cap, shoes and socks?

A Shoes, socks, pants, coat and cap--no belts.

12w

Q Like the ones you saw in court here?

A Yes; but no belts.

Q When you came over on the submarine were you under the command of the captain of the submarine?

A Yes.

Q And all the other boys were under his command?

A Yes.

Q He was a member of the navy?

A Yes, sir.

Q Now, Pete, there was some talk about Quirin having said something to you about being nervous as to the leadership of the group. Do you remember that?

A As to George Dasch being the leader; yes.

Q What did Quirin say?

A I will have to explain that. It goes farther back. The actions of George Dasch were so that nobody or no one particular group had confidence in him.

Q I do not understand that.

Colonel Royall. Let him answer the question.

The Witness. May I explain?

Questions by the Attorney General:

Q Yes.

A It was a reaction to George Dasch's behavior. Quirin and also Heinck and I myself, we didn't know what it was all about; and in the conversation--

Q (Interposing) I do not understand when you said you did not know what it was all about.

A We did not know what he was up to; we didn't understand him. My personal idea is if a small group of soldiers

13w

was to go to do a certain job or on a certain mission, that they have to be acting together like soldiers. But it was not in our case. It was a misunderstanding. There was no harmony. There was watching each other. It was no good; the spirit was not there. See? That was the reason why Quirin, as the second leader, had the perfect right, and his duty was to watch that very closely, and for that reason his idea and his wish came that if George Dasch kept on the way he did, and if he disappeared a couple of days he would take over command. I think that is what you are referring to.

Q Quite properly carrying out orders?

A Absolutely.

Q And were the other members all suspicious of Dasch?

A I am speaking now, sir, of our group.

Q I know. But the other two boys were suspicious of Dasch, were they?

A Yes. I too.

Q Suspicious because you did not know whether he would carry out orders or not?

A Suspicious because he acted queerly.

Q You said you had no confidence in him. You meant you had no confidence that he would do what he was told to do?

A I am speaking now of the impression we had as the three members of the group, and he was supposed to be the leader.

Q But when you said you had no confidence--

A I meant the feeling of the group as an entire group under the command of one man, there was no confidence.

Q What were you suspicious of--that Dasch would not carry out his orders as he had been told to do?

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A I would not go so far as to say that. I did not know if he wanted to carry out the orders. I only knew--and we were talking about it repeatedly--that it was very funny with him, that he never did the expected thing.

Q What was the lack of confidence? Was it because you thought he might not carry his orders out?

A In fact, our first opinion was, Quirin, Heinck and myself--our first opinion was that he would get away with the money. It was \$80,000.

Q Was it not true that you and Quirin thought he might not carry out his orders?

A More or less; yes.

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Q When did you have that opinion?

A I had that in Berlin.

Q In Berlin?

A Yes.

Q You were not suspicious of the other two, were you?

A No.

Q Pete, you spoke, I think, of trying to get out of Germany by going to Switzerland or Ireland; is that right?

A I said it would have been a possible way to get out.

Q Did you try to make some arrangements to get to Ireland?

A No.

Q What effort did you make to get out of Germany? I was not clear about that.

A Well, as I told you, I wanted to find a legal way of getting out of Germany, and the legal way to get anywhere in Europe is either with the party or with the army; there is no other way.

Q Let us see. How long were you in Germany this last trip?

A From 1933--July or June; I think July--until now.

Q When did you first decide you wanted to get out of Germany?

A On the 1st of July, 1934.

Q 1934?

A Yes.

Q What effort, except to join this sabotage gang, did you make to get out from the 1st of July, 1934?

A I tried to get into the Foreign Department. I

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studied or finished my education in the University of Berlin in order to get into the Foreign Department. My professor was, as I explained, the Professor Boehmer Kerling mentioned, who was chief of the foreign press of the Propaganda Ministry; and I also got in touch with Professor Hausofer, who was also my professor at the university, who had very far-reaching connections all over the world, but I didn't succeed.

Q Well, were there any other efforts except what you have just described?

A I wanted to get my American passport straight, and I talked to Miss Schultz--I mentioned her in the statement--about it, with no success, until I had finally the chance of coming over here.

Q Those were all the efforts you made since 1934?

A Well, they were continuous efforts to get out. You see, at that time I had a very--I had more chances. I mean at that time Europe was not occupied by German troops.

Q Were you an American in 1934?

A An American?

Q Yes.

A I think so.

Q Americans were getting in and out of Germany then, were they not?

A Yes.

Q In 1935?

A But at the same time I was a member of the Party, and I was a former aide-de-camp to Roehm. I could at no time either go to an American consulate or have any connections personally; therefore, Miss Schultz was kind enough to get in

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touch with some people, but it wasn't no good.

Q Did you ever go to an American consulate?

A I could not.

Q You did not?

A I could not.

Q But you did not?

A Well, I did not and could not, sir; I couldn't afford to.

Q That may be true, but I just want to be sure you did not.

A No, I did not.

Q How many Americans were getting into and out of Germany in 1934, 1935, 1936, 1937, and 1938? Do you know?

A I don't know; I suppose, especially during the Olympic games, thousands of them.

Q Were you a loyal German when you were in Germany in 1935?

A In 1935? In 1935, sir, thousands of my friends and comrades were shot.

Q Were you a loyal German in 1935?

A I say No.

Q I think you have said that your first reason to get out was political?

A Yes.

Q Until this mistreatment of your wife?

A Yes.

Q Then the added reason became personal as well?

A Yes.

Q I did not understand what you said about this

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possibility of going to Ireland.

A It was the first proposition given to me by Lieutenant Kappe.

Q Did Kappe suggest it?

A Yes.

Q Just what was it? I did not quite get that clearly.

A There was a time when American technicians were employed by the English Government or by some English industrial plants in the northern part of Ireland. That is all they mentioned to me.

Q You did not hear any more about it?

A No, sir.

Q I think I understand pretty clearly your situation. It was that you could not get out illegally because there would be reprisals?

A What do you mean by reprisals?

Q I mean that they would hurt your family in Germany if you got out illegally?

A Yes, that is right.

Q If you gave yourself up over here on a mission, the same thing would happen, I presume?

A I don't understand you, sir.

Q Suppose you had surrendered yourself. If you had surrendered yourself to the F. B. I. and the news had got back to Germany--

A (Interposing) You mean now?

Q I am talking about your state of mind in Germany.

A Yes.

Q You came over here and never meant to go through

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with this?

A Yes, that is right.

Q If that news had got back to Germany, they would have hurt your family just as much, would they not?

A I know it, but that news never gets back to Germany, because the F. B. I. promised me that it would be kept a secret.

Q This Government is full of Gestapo agents over here?

A I don't know, sir.

Q You were told it was?

A I am not talking about the Government; I was only told that there might be, and that there are some agents working for the Gestapo, or members of the Gestapo, even in the F. B. I. That was a conversation I overheard.

Q Well, did you feel pretty certain when you left Germany that there was no chance of the news getting back to Germany after you had given yourself up?

A I don't understand.

The Attorney General. Will you please repeat the question, Mr. Reporter?

The Reporter (reading):

"Question. Well, did you feel pretty certain when you left Germany that there was no chance of the news getting back to Germany after you had given yourself up?"

The Witness. No, I don't think there is a chance.

Questions by the Attorney General:

Q When you were in Germany, you thought it would be perfectly safe to give yourself up to the F. B. I., and you

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thought that that news would never get back to Germany?

A When I was in Germany, sir, I didn't think that anything would happen over here, with the exception of getting first to the United States, see? And secondly, to make it impossible to use the explosives; and third, it would have a very long time to prepare, by all these formulas, new explosives.

Q But your main purpose was to protect your family, wasn't it; otherwise you would have got out illegally?

A Well, there was no chance to get out legally.

Q Illegally, I said.

A Illegally? I am not going illegally anywhere.

Q That was to protect your family, was it not?

A Certainly.

Q So, that was your main consideration, was it not?

A It was. It wasn't only my main consideration. I don't see why I should go out illegally if there is some way to get out legally.

Q If you could have got out illegally and your family would have been protected, you would not have objected, would you?

A That is no combination; that is impossible.

Q Why?

A Because it is impossible; you can't get out of Germany illegally and still have your family protected.

Q Then, your reason for getting out legally was to protect your family?

A Well, partly.

Q Was there any other reason?

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A No.

Q Tell me a little about the landing on the beach. It was very dark and foggy, was it not?

A I still do not say--Pardon me, sir; I have to come back to that. It was not the only reason to get out.

Q All right; what was it?

A If I had a chance and there were a chance to get out illegally--out of Germany--it wasn't the only reason--only to protect my people.

Q What was your reason?

A Because a man doesn't go out illegally anywhere.

Q Do you mean you would have hesitated to go over the Swiss Border and sneak out of Germany? You would have thought that that was wrong and wicked? Is that what you mean?

A Not wrong. I wouldn't say wrong.

Q Why would you not have done it, then? Do you think a man does not do that?

A That is right.

Q Did you think that would have been much worse than coming over with a sabotage crowd?

A That has nothing to do at all, because I came over here legally, on a German order, see? I don't have any reason to sneak away, have I?

Q The only reason, the real reason, is it not true, why you did not want to try to get out over the Swiss Border was the Gestapo?

A That was one of the reasons. I told you it would have meant the arrest of my people.

Q We always come back to that.

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A If I would not have had any people over there, I still would not have sneaked out.

Q Why?

A Because I don't have to. Because why should I? I have to find a legal way; that is what I did.

Q You would rather come out legally in a submarine rather than go out illegally over the Swiss Border?

A Pardon me; I don't understand.

The Attorney General. Will you please repeat the question?

The Reporter (reading):

"Question. You would rather come out legally in a submarine rather than go out illegally over the Swiss Border?"

The Witness. That is right.

Questions by the Attorney General:

Q Pete, I want to come back to the early morning that you landed in Amagansett. The morning you landed in Amagansett it was quite dark and foggy, was it not?

A Yes.

Q You had certain objects and put them along the beach?

A That is right.

Q One was a half empty bottle of schnapps?

A That is right.

Q Where did you put that?

A I stuck it in the sand, sir.

Q Standing up?

A Standing up.

Q Buried in the sand?

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A Not buried, but just stuck in.

Q The other was a half smoked package of cigarettes?

A Yes.

Q You threw that somewhere?

A A white silver package or box like this.

Q You put that in the sand?

A Lay it on the sand.

Q How far from the buried boxes?

A Very far from the spot where the boxes were buried last.

Q How far?

A I can't say that--how far.

Q How far away was the bottle? Do you know that?

A Well, if you follow our way from the water edge, part of the sand beach, you would find the box of cigarettes right--well, at some distance from the water edge. Then small pieces came--small pieces of a wooden fence, and close to it was the bottle. Then it goes up the bank, and on top of the bank was the raincoat. Then you could follow all small pieces up a sand hill going land inwards along the bank to a sand hole depression, where finally the boxes were.

Q Is the bank like a sand dune?

A No, it was weeds, woods, and stuff.

Q Was it high or low tide when you landed?

A I don't know.

Q Were the cigarettes above the high water mark?

A I don't know what the water mark was.

Q You did not notice how high the mark of the waves was up on the beach?

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A The high water did not reach the box when I was there.

Q How far from the boxes?

A Well, I am talking about the cigarette box now.

Q How far was the cigarette box?

A From the explosives or the water?

Q From the water?

A I don't know that.

Q A hundred yards?

A Oh, no.

Q Fifty feet?

A No, no.

Q Not that far?

A Not that far.

Q Ten feet?

A It might be less than ten feet, I think.

Q You don't know whether it was high or low water at that time?

A I don't remember that.

Q Let us see what the objects were.

A May I explain that to you, sir?

Q Surely.

A I was very excited, naturally, in a state of mind where I didn't recognize anything. It was foggy. I was thoroughly wet, because three or four big waves hit me, and I just ran out of this boat, having the suitcase, and then taking the cigarette box out of my pocket and putting it, as I remember, flat on the sand. I cannot recall how far it was from the water edge.

Q Let us see. There were cigarettes, a bottle, and the

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coat. What other objects did you put down?

A Well, small pieces of clothing.

Q How big were the pieces of clothing? What kind of clothing was it?

A I suppose bathing trunks and the vest--folded vest.

Q You did put those down on the beach?

A No, not on the beach; up on the bank.

Q Near the boxes?

A Well, on the way towards the boxes; towards this sand depression.

Q How many objects were there? Five or six?

A I don't remember.

Q You don't remember how many there were?

A No, I don't remember.

Q You put those there so that, you thought, whoever was looking for the boxes could follow each one, and they would lead to the boxes; is that right?

A I left tracks by throwing different items down and left a way marked.

Q Clearly marked?

A Yes.

Q Clearly?

A I suppose.

Q Clear enough. Would it not have been a little more simple and a little more certain if you had called up a policeman and told him where the boxes were?

A On the beach?

Q Anywhere.

A That was done, sir, after we left the boat, before

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the cigarette box was put down and my cap was thrown somewhere.

Q Why did you not go up to the Coast Guard and report it?

A Well, may I explain to you, sir?

Q Surely.

A When we landed and we jumped out of this boat, in order to make it real fast and the boat can go back to the submarine again, I tried to explain to you that I put down three different items before ever the Coast Guard man stepped up; and before the Coast Guard man came, I did not know that there was a Coast Guard station around or where we were. It was so foggy that we did not, in fact, see from the water edge the bank or houses or anything.

Q Had you decided before to report it at all?

A I didn't think of anything but getting away from that beach.

Q When you came over on the submarine, did you decide to report it?

A I decided that I had, as I told you--that I had to make it impossible to have the explosives used by the members of my group.

Q Did you decide while coming over on the submarine that you were going to report it?

A I decided to make our plan or our orders fail.

Q I understand that, but you have not answered the question.

A Well, it is pretty hard for me to answer the question.

Q Did you decide on the submarine that you were going to report this to the proper officials?

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A I did.

Q When did you decide that?

A Well, I don't think anyone could answer that question, sir.

Q But you let a week go by in all before any report was made, did you not?

A As soon as--on the very evening of the day of the landing, George Dasch took the whole business over on his hands, and I was very happy to hear him explain why, and then his ideas. He talked very long on that.

Q Did you trust Dasch?

A I did.

Q You had confidence in him?

A Absolutely.

Q For some purposes but not for others?

A Well, I don't understand your question.

Q You had confidence in him for some purposes, but you did not have confidence in him for other purposes?

A I don't know what you mean by "other purposes."

Q I thought a little while ago you said you did not have much confidence in Dasch.

A A little while ago--Pardon me, sir; I have to explain to you. A little while before, I was talking about the feeling of our group as subordinates of the leader.

Q Were you not afraid that he would steal some of the money?

A When? Saturday or Sunday?

Q At any time.

A Not after we had our talk.

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Q But before you had your talk?

A Before, not only I but we all had the feeling anyone has of a man he doesn't know very good and very well and acts funny and carries around a suitcase with \$82,000.

Q So, as soon as you had your talk, your confidence was completely restored?

A After that it was restored because--Yes, that is right.

Q You had never suspected Dasch of giving this away before you had your talk with him, had you?

A No. Of giving it away? No, but I also didn't expect him to carry out the orders which were given to him over there.

Q When did you first come to that conclusion?

A I came to that conclusion, as I tried to explain before, all along during the school.

Q You never thought Dasch would carry out the orders?

A I mentioned that before.

Q I say, you never thought he would carry them out?

A I tried to explain; I am sorry I can't express myself. It is very hard to explain to you that his actions were not so-- as the actions of a leader would be of a group of soldiers who are just--before action. Understand what I mean?

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Q He was not very soldierly?

A That is one point. That is one point. You may put it that way.

Q How about the other boys?

A You see, I can't explain that very good. I am a soldier and he is not.

Q I see that.

A But, positively, his actions were not as a soldier and they were not as a saboteur, or whatever you call it.

Q How about the other boys? What were their actions?

A He took up all the time of our consideration. There was no chance to consider anyone else. That is the major fact. It is really not to laugh; it is a fact, because, you see,-- May I explain a little further?

Q Yes.

A Because if you should follow our way from Berlin to the school, to the different industrial plants, from Berlin to Paris, from Paris to Lorient, and from Lorient finally on the submarine to the coast of the United States, and there was not one order given by our superiors he would not do the opposition-- you know, the contrary--not one order. There wasn't one place where he did anything that wasn't wrong in the eyes of people-- you know what I mean. Even on the train he lost his papers and made a lot of trouble for anyone connected. So naturally the feeling wasn't very high for competent leader of an undertaking like this.

Q Now, Pete, let us go back to this question of the gold certificates. I was not quite clear about that. You said it did not worry you that you might be arrested. As I under-

stand it, what worried you was that you might be picked up for having gold certificates? Well, I do not quite understand what your explanation was. What was your state of mind when you found these gold certificates in the belts?

A My state of mind was, here is another proof that Mr. Kappe and all the officials over there don't give a damn for the tools they use, only for the special purpose they had in mind. What happens to the guy who does it doesn't make any difference.

Q Were you afraid that the gold certificates would get you in trouble?

A I wasn't afraid for myself. I didn't even consider myself. I only considered the effect. I only considered the effect, see.

If you tried to get a picture of the whole situation, that there were eight men leaving on two submarines to a foreign country, on a mission like we had, and then they give a man money which immediately gets him into trouble--

Q What did the gesture mean? You did not finish your sentence.

A I am quite sure you understand what I mean.

Q It is bad business to do that kind of thing?

A It is not only bad business. It is a dirty trick. And besides that, not only they give you the wrong money; they don't give you as much as they tell you is in the belt. In this country you call people like that chiseler.

Q I think I would call them worse than that. Did you think they double-crossed you when they put gold certificates in?

3b

A I know that, because they made money on that. They made money on the very fact that they sent us on a dangerous mission. They even made money when we were back there yet.

Q And you all expected to get more money?

A I did not expect more money. It was not of any importance for me how much money I had, but it was important for me that if they say in the belt there is \$4,000, that there really are \$4,000, see. It means that I must have the feeling I can depend on my superiors as a soldier. If I had a proof that I cannot depend on them, that they are lying to me, that there is a carelessness which means punishment for me and trouble for all of us, I can't respect them and I can't take them as a leader.

Q Pete, did you have a feeling that they were all right up to that gold certificate episode? You depended on them up to then?

A I did not depend on them at all.

Q You had a feeling that you could depend on them as a soldier up until the gold certificates were found?

A No. On whom do you mean?

Q On your superiors, as a soldier.

A No, I did not have that feeling, and, in fact, I did not have that feeling from the very first day when I got there.

Q Well, then, the gold certificate episode did not really surprise you very much, did it? It did not bother you much, did it?

A It bothered me--well, I don't know what you mean by that question.

Q Well, you said you had not depended on them at all,

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so when you got these gold certificates, which was so careless, I suppose that is what you suspected all along?

A Well, it convinced me that all along I was not wrong in my opinion.

The Attorney General. Perhaps it would be fair to the witness--

Colonel Royall. It is all right. Either way you want to do.

Are you getting along all right, Pete? Are you tired?

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The Attorney General. Does the Commission wish to take a recess?

The President. We will have a recess for ten minutes.

(A short recess was had, after which the following occurred:)

The President. The session is opened.

Colonel Munson. The witness is reminded he is still under oath.

Questions by the Attorney General:

Q Pete, were you told, shortly before leaving Lorient or leaving Germany, that in order to protect you members of the group who were not German soldiers they had been assigned to various units in the German Army in order to carry out their pretense?

A I did not get this question.

(The last question was read by the reporter)

A Not in Lorient; at the school I was told this.

Questions by the Attorney General:

Q In the school you were told that every member of both groups had been assigned a number in the German Army?

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A I don't know about numbers, but they were assigned to the German Army.

Q They were all assigned to the German Army before coming over?

A Yes.

Q All eight of them?

A I imagine so, sir.

Q Who told you that?

A Kappe.

Colonel Royall. I believe the other defendants should move to strike out what Kappe says, as far as concerns them. I did not know the question was going to be in that form. Of course, as far as this defendant is concerned, there is no objection; but as far as what Kappe told this defendant about the others is concerned, I think that is incompetent.

The Attorney General. The whole proceeding, ever since these defendants have been cross-examined and examined, has been permitting hearsay to go in. These defendants have been openly permitted to say what Kappe told them right along. This objection seems to me to come a little late.

Colonel Royall. I do not mind disclosing just what I have in mind about it. I think the Attorney General knows.

One or possibly more of the defendants have testified that they were not given any numbers or were not members of the Army; and it seems to me, as a practical and a reasonable matter, it is a little unfair to contradict them by what somebody told this witness.

I am confident that this witness is telling the truth if he says someone told him that, and if this witness had known it

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of his own knowledge there would not be any objection to it; but it does seem to me that the testimony as to what Kappe told the defendant Burger in Germany ought not to be received as evidence against Haupt and these other defendants. It might be on a very material matter, because it might affect, for example, the citizenship of Haupt, and I do not think that ought to be proven by just pure hearsay.

Now, it is true that we have asked these witnesses their conversations with Kappe. Both sides have done that. But that is where the conversation related to the defendant who was on the stand, and I do not think there has been any effort to prove facts against the other defendants by what somebody said. I ask that that be stricken.

The Attorney General. I consider this exceedingly important evidence. The evidence is that the man in charge of these two groups had stated specifically that they had been assigned to the German Army, to units in the German Army. I think that is important evidence. Leaving aside the hearsay rule, it seems to me it would convince any reasonable man that they had been assigned to those units. This is very important evidence for the prosecution. Therefore I ask that it be not struck out.

The President. Have you any remarks, Colonel Ristine?

Colonel Ristine. I make the same motion with respect to the defendant Dasch. I am sure that Dasch testified that he was not a member of the armed forces, and, of course, I take the position that it could not be proven that he was a member of the armed forces by what some other witness testifies about some statement that somebody else made to him.

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The Attorney General. There is one technical consideration that is important to my argument, and that is this. Charge 4 of the charges provides this specification:

"In that during the year 1942 the prisoners," and then their names are mentioned, "being enemies of the United States and acting for and on behalf of the German Reich, a belligerent nation, did plot, plan, and conspire with each other, with the German Reich"--in other words, the conspiracy is with the Reich as well as among themselves.

Now, Kappe was an agent of the German Reich, and therefore the charge is that Kappe, or the Reich represented by Kappe, was part of that very conspiracy.

Obviously, that confession of one of the conspirators was made right in the beginning of the conspiracy. So that it seems to me, under the most highly technical rules, that that admission of the Reich, made by its agent, is obviously admissible against all of the other conspirators, because then clearly there was no intimation that the conspiracy had finished. It was right in being at that very moment.

Therefore, from even a technical rule of the admission of evidence applicable to courts, which we have never conceded is applicable to this Commission, it seems to me that the statement or confession of Kappe was clearly chargeable against these co-conspirators.

Colonel Royall. I just want to add this. The fact that it is material for the prosecution to prove it is all the more reason why it ought not to be proved by hearsay.

Of course, there is no objection from the defendant Burger,

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because he admits he was in the German Army and states the full facts about it. He is not objecting to it. But we are in a position where we represent other defendants, and this was stated not when they were present, but it was stated by a third person.

We move again that it be stricken as to the other defendants.

The President. Close the Commission.

Would it be more convenient, from the householding point of view and other reasons of both sides, that we should take our noon recess at this time or come back for possibly fifteen minutes more? What time do you wish to return?

The Attorney General. I think, from household and other arrangements, that if you took it now it would be a little more convenient from our point of view.

Colonel Royall. That is entirely satisfactory, and I suggest that we have as short a recess as the Commission finds convenient, because there is not very much more testimony in this matter from the standpoint of the defendants.

The President. Is 1:30 satisfactory to both sides?

The Attorney General. Absolutely.

Colonel Royall. Yes.

(Thereupon, at 12:25 o'clock p.m., a recess was taken until 1:30 o'clock p.m., of the same day.)

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A F T E R R E C E S S

(The Commission reconvened at 1:30 o'clock p. m., upon the expiration of the recess.)

The President. The Commission is open. Come to order, please.

Colonel Munson. The full personnel of the Commission, the eight defendants, and the reporter are present. The full personnel of the prosecution except Colonel Treusch and Mr. Rowe is present. The full personnel of the defense except Captain Bruton and Captain Hummell is present.

The President. The motion of the defense to strike is not sustained. Proceed, please.

ERNEST PETER BURGER,

the witness on the stand at the time of the noon recess, resumed the stand and, having been previously duly sworn, testified further as follows:

Colonel Munson. You are reminded that you are still under oath.

The Witness. Yes, sir.

CROSS-EXAMINATION--Resumed

Questions by the Attorney General:

Q Pete, there are a few more questions I want to ask you. I think you said that Dasch had been studying some records over in Germany?

A Yes.

Q What records were they? Do you know?

A He told me about the records of the Seibold case.

Q Did he have other records he was studying?

A I don't know, sir.

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Q Did he have the records of any individuals who might be used for sabotage?

A I don't know, sir.

Q Was he pretty intimate with Kappe?

A He was the leader of the group.

Q Was he intimate with Kappe?

A Without question.

Q Did he help Kappe organize this school, would you say?

A Well, not the school, sir; the school as such was organized long before Kappe.

Q How long had the school been going?

A I don't know.

Q You don't know if they had sent anybody else there before?

A Well, I do know that they sent someone else and other groups to other countries.

Q Do you know where they sent them?

A Well, I know that before we started the course, there were Indians from India.

Q Do you mean Indians had been trained from India?

A Yes.

Q You do not know any of their names, I suppose?

A No, sir.

Q Were they sent out?

A I imagine so, sir.

Q You don't know, though?

A Well, they weren't there any more when we came.

Q You did not hear any more about whether they were

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sent out?

A No, I didn't hear about it.

Q Did you hear that any groups had been sent out?

A I did hear that for quite a length of time continuously groups were sent out.

Q Did you hear where they were sent?

A No.

Q You did not hear whether they were sent to England?

A I didn't hear that.

Q Or Ireland?

A I didn't hear it, sir.

Q You knew Barth, of course?

A Yes, I did.

Q Was Barth intimate with Dasch?

A Yes.

Q Did they work together in the organization of these two groups?

A I don't know. When I got acquainted with Dasch, he stayed at the school, and Barth usually came out to the school for a week end.

Q Was Dasch with Barth a good deal?

A Not more than the other boys.

Q What would you have done with those formulas if you had not lost them?

A I would have given them to Mr. Lanman.

Q What would you have done if Dasch had not turned this in to the F. B. I.?

A I would have turned it in myself.

Q When did you decide to turn it in yourself?

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A I decided that as soon as I came out of the Gestapo place that I found--that I would find a way to get even.

Q When did you decide you would turn this material in to the F. B. I. if Dasch did not turn it in?

A As soon as I knew what it was all about at the school.

Q At the school did you decide that the F. B. I. were the people you would report it to?

A No, I didn't know about the F. B. I.

Q Whom did you decide at the school you would turn it in to?

A I didn't know that, sir.

Q You just decided you would turn it in?

A Yes, sir.

Q Was Saturday, the 13th of June, the first intimation you had that anyone else in the group was not going to go through with it?

Colonel Royall. Maybe he does not understand what "intimation" means.

The Attorney General. I think he understands it.

Questions by the Attorney General:

Q Do you understand?

A Well, I am trying to understand, if you will give me a little time to consider that.

Q Surely.

A You mean the first idea that anyone else did not want to go through with it?

Q Yes.

A Well, that was the first idea and the first--well,

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the first hunch, you would say.

Q The first hunch?

A That George Dasch would not go through with it; but, on the other hand, I had some ideas that, for instance, Heinck could not go through with it.

Q I think you said other people in the group were distrustful, did you not?

A Yes.

Q Who?

A Heinck and Quirin.

Q You spoke before we had a recess of Kappe's telling you that all the members of both groups who were not in the Army were assigned to Army units. Was anyone else there when Kappe said that?

A Well, I beg your pardon, sir, but it is not quite right.

Q I am sorry; I misunderstood it.

A You see, Neubauer, for instance, was in the Army.

Q I said that anybody else who was not in the Army would be assigned to Army units.

A Yes, that is right.

Q Was anybody else there when Kappe said that to you?

A Well, I tried to remember during the recess. I believe that Eddie knew it.

Q Eddie who?

A I am not quite sure whether Werner Thiel.

Q Eddie Kerling?

A Yes. I remember that--I do know that Kappe told me that, as a matter of fact.

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Q But you are not sure--

A (Interposing) But I don't know who was around.

Q But you think Thiel and Kerling may have been there?

A I believe they were there. It was on the porch of this school towards the lake, and there were two other boys passing by; in fact, just stopping and listening.

Q Have you finished?

A Yes, sir.

Q Did any of the other boys in your group tell you that they had been assigned to Army units?

A No; Kappe told me.

Q Only Kappe told you?

A Yes. But may I go back to what we were talking about just before the recess, sir?

Q Surely; go ahead.

A That was the conspiracy.

Q Go on. Go ahead, Pete.

A Well, my idea was that, as far as the conspiracy is concerned, that, for instance, George Dasch and I had a conspiracy against Germany, if that is the understanding of the meaning of the word.

Q Did you want to make any further explanation?

A That is all.

Q Did Dasch say anything to you about being a Communist or having been a Communist?

A He told me he got in touch, when he was in the German Army during the First World War--that he got in touch with a man who studied philosophy and that he had some Communistic ideas, and that he studied that with this man.

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Q Did he say whether he ever was a Communist?

A Well, not with the same words.

Q Not what?

A Not with these words.

Q What did he say about whether he was a Communist or not, if he did not use those words? What did he say?

A I don't recall it.

Q Were you mixed up in the Communist riots in Germany?

A Yes, against the Communists.

Q When was that?

A That was from 1923 up to 1927.

Q Did your connection with those riots have anything to do with your leaving the country?

A Yes.

Q What?

A Well, you see--May I explain that?

Q Certainly.

A At 1927 we had more than 30 different political parties in Germany, but the only two parties really fighting on the street--that was the National Socialist Party--that is the storm troopers--on one side, and the Communists on the other side. So, of course, there was a continuous friction between us--two groups--and the difficulties between the two parties, as extreme left and extreme right, were not only fought out by speeches but by actual fighting.

For instance, in 1924, in the occupied Rhine zone, the separatism--they were more or less Communists, and I was in action over there, too, and so on. The following years there was continuous fighting, not only until 1927, when I left, but

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also up to 1933, when Hitler got finally the regime.

Q What had the connection with the Communist riots to do with your leaving Germany?

A Well, I belonged to the storm troopers, see?

Q Yes.

A Well, it wasn't safe for me any more to stay in Germany. That wasn't safe any more.

Q What were the dates when you were working for Roehm as aide-de-camp?

A From the fall of 1933 up to the 30th of June, 1934--until he got killed.

Q How soon after you got back to Germany did you join the Nazi Party again?

A Well, when I came back to Germany, my friends found out immediately that I came back, and I never enlisted because at that time the Party was closed. There was no official opportunity any more to enlist in the Party.

Q You did rejoin it, didn't you?

A Sure, I did, without rejoining--without filing any application, just because they knew me as a member before that.

Q How soon after you got back to Germany did you rejoin it?

A Well, I rejoined it--you see, I got the membership certificate--that book--a year later, in 1934; but I immediately had all the boys around my place as soon as I got back.

Q From a practical point of view, you rejoined it immediately and got the book later? You were active in the Party at once, were you not, as soon as you got back?

A Yes, that is right.

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Q You did not take any additional oath, I suppose, did you?

A No, no.

The Attorney General. All right. That is all.

CROSS-EXAMINATION

Questions by Colonel Kistine:

Q Do you remember, Mr. Burger, an incident or two which occurred in the school, which indicated to you what Dasch's intentions may have been?

A No, not of his intentions.

Q Let me refresh your recollection by reading from page 33 of your statement. It is the third paragraph.

"It was during one of these tests conducted by George Dasch that I first got together with him and began to get some idea that he was not the absolute Nazi which he pretended to be."

A Yes, sir, I remember now.

Q Would you tell the Commission about that incident?

A Yes.

Q If you recall?

A Yes. George Dasch and I were walking from the school to a small tavern near by, about 45 minutes to walk, and on the way over he asked me different questions, and also he came to talk on my experiences with the Gestapo, so I expressed my feelings quite impulsively, and he immediately stopped me and told me I should not say one more word about it; there would be a time when he would ask me more about it. But he did not

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express anything about his intentions.

Q Well, now, the expressions that you made to him were very bitter against the Gestapo, were they not?

A They were.

Q It was during the statement of your bitterness that he stopped you?

A That is right, sir.

Q He then told you there would be a time and a place when he would reopen that subject but that for the time you must be quiet?

A That is right.

Q If Dasch had been a loyal Nazi at the time, he would have turned you in to his superiors, would he not?

A That is possible.

Q And would have reported you? In fact, he would have encouraged you to go ahead with your statement if he had been a loyal Nazi, would he not?

A Yes, sir, that is very probable.

Q Well, then, did not that indicate to you that he was not the Nazi he had pretended to be?

A I had this opinion not only from this statement or from this specific incident, but I had this feeling not only that time but several times.

Q Would you relate to us some of the other instances which gave you that same impression of Dasch's intentions?

A Well, I don't believe I am the only one who had this impression, sir; I think everyone at the school had the same impression, because he did not act like a Nazi. You see, he did not even know how to act. In fact, I believe, and I

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have the true impression, that he did everything to, as I said-- to the opposition.

Q Did you notice that he lacked interest in the school work?

A You mean that he was not interested?

Q Yes.

A Yes, I noticed that. Everybody noticed that.

Q That caused you and the others, you say, to distrust him or to feel that he was not or had no intention of carrying out the plan?

A I wouldn't go so far, sir.

Q How far would you go?

A Well, I would say that we all had the impression-- and I personally myself--that he was not interested to live up to the orders we had there, you see, and our orders were to study; and seeing he wasn't interested--in my opinion, there is only one way for a man to go, so it wasn't the way he wanted to go.

Q In other words, you thought he was opposed to carrying out the plans that were made in the school; is that right?

A Well, the carrying out part, you know, I don't know, because he did not confide in me; but I did know and I realized that by not studying, he was not able to carry out any orders given to him, see?

Supposing, for instance, the explosives were not in our hand--the ready-made explosives were not in our possession any more. He was not able to prepare a single formula or a single explosive by formulas because he simply did not know it.

Q In other words, he had not studied them enough to

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know even how to mix them?

A That is right.

Q Therefore, you thought he had no intention--

The Attorney General. Wait a minute. He has already said "No" to that. You are trying to make him say it again.

Colonel Ristine. I do not think I am trying to make him say anything, Mr. Attorney General.

The Attorney General. Well, I do.

Colonel Ristine. I am just trying to get his viewpoint about the matter.

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Questions by Colonel Ristine:

Q Now, what instructions had you received before you left the submarine with respect to any patrol or any persons that you might meet on the shore?

A About two or three hours before we left the submarine the captain called us down around the table and, together with two sailors and all the officers, we spoke about the landing.

Then the captain said in case--or the question was brought up, in case we run into any guards or watchmen on the beach, what we should do. And the captain said he purposely had picked out two very strong and tall sailors so we could overpower the sailor without using any arms or without anything and put any guard or whatever he is back in the boat, and the two sailors were supposed to bring the man back to the submarine.

Q Now, Dasch did run into a patrol?

A Yes.

Q And you came up to him while he was talking to that patrol, didn't you?

A Yes, sir.

Q Was the patrol armed?

A I don't know, sir. I don't know.

Q Was it just a one-man patrol?

A It was one man, yes.

Q What did Dasch say to you when you came up there? How close did you get to the patrol?

A Well, standing in front of him.

Q Just right next to him?

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A About that far (indicating).

Q By "that far" you mean within 2 feet of him?

A Yes.

Q Now, would there have been any difficulty in overpowering that man?

A No.

Q And it would have been an easy matter to carry out the instructions of the captain of the submarine?

A Yes.

Q What did Dasch tell you to do?

A I should go back to the other two boys and keep there.

Q By "the other two boys" you mean the other two of your group of four?

A Yes, Henry and Dick.

Q And I believe that you later learned, in connection with the sailor, that Dasch had instructed the two sailors to go back to the submarine?

A He did.

Q And they went back?

A Because when I went down--I first thought it was one of our sailors. Then I realized that it was an American sailor, and I didn't see our sailors any more, so they must have left at that time already.

Q Now, didn't that also indicate to you that Dasch had no intention of carrying out the plan?

A It indicated that he did not follow the orders.

Q Of the submarine captain?

A And orders given to us by our superior officers.

Q You mean by that the submarine captain?

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A Yes, sir.

Q Now, do you remember that Dasch told you, when you were in Paris, something about an appointment he had with a newspaper man from the United States?

A No, he did not.

Q Well, don't you remember that he told you that he either told or intended to tell that newspaper man of his intentions of getting in touch with the F.B.I. upon his landing in the United States?

A That's right, sir.

Q Where did that conversation happen?

A He told me on Sunday, the 14th--14th of June he told me that he met some one of the newspaper men or someone who was to be exchanged, I suppose, in Paris, and he reminded me when I passed him and this man in Paris, at the foyer of the hotel, that I saw this man. It is a fact.

Q Had you seen him with some American in Paris?

A I don't know if he was an American. I saw him sit with a man who, he explained to me later on, on the 14th of June, that that was an American to which he had explained that he was to tell the F.B.I. about everything.

Q Now, what did you tell the other two of your group with respect to the Guardsman that you met on the beach?

A You mean from the moment when I came back, seeing the Coast Guardsman?

Q When George told you to go back to the other boys and keep them there, or whatever he said, what did you do to carry that out?

A As clear as I recall it, I came back--I had the sea

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bag with me--I came back to the two boys and told them, first of all, "Down." I believe, as much as I remember, I told them, "Down," to crouch down--and I explained to them that there was an American sailor, or something, because I saw that white cap and that everything would be O.K., that George takes care of him, that he gave him some money, and that's all, I think.

Q Well, did they want to carry out, or did either one of them want to carry out, the order of the captain of the submarine?

Colonel Royall. Objection. Of course, there is no objection from the standpoint of the defendant Burger, because it does not concern him, but to ask him what some other defendant wanted to do, when nobody can possibly know that, is not proper. We object on behalf of the other defendants.

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The President. Objection sustained.

Questions by Colonel Ristine:

Q Well, did you carry out the orders and keep the other two boys away from the Coast Guardsman?

A We all kept away, sir.

Q All three of you?

A Yes, sir.

Q I believe you explained to them that that was George's order, that they should remain there?

A Yes. In fact, we stayed there--we stayed at the same place until George came back, and then after George came back we went up the bank. We did not leave before George came back.

Q When was it that George explained to you the first time that he did not want to harm that Coast Guardsman?

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A When we waited for--when we sat down the first time and waited for the sky to get light--you know, for the dawn. When we waited for dawn, then he explained to us what was going on with the Coast Guardsman, that he gave him some money. He told us about that--that he told the boy about his father and mother, and all that. He also told us about hearing from Washington.

Q Didn't George tell you the Guardsman's name?

A Yes, he did. That was later.

Q Oh, later? Now, tell me about the conversation that Dasch had with you when he told you the Guardsman's name and that he wanted you to remember it. Now, what did he say in that connection?

A After we had started out from our--from this place where we sat down and we waited for light, for morning, Dasch and I walked together on the concrete road, and he told me I should listen very carefully and remember the name Frank Collins as the name of the Coast Guard's boy, because there would be a day when I had to remember that name and when he would use his name.

Q Did he tell you where he would use the name?

A He told me that in connection with Washington.

Q With Washington?

A Yes, sir.

Q Now, when was the first conversation you had after arriving in New York in which you and George exchanged confidences?

A On Saturday, the evening of our landing.

Q You landed in the early morning hours on Saturday?

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A Yes, on the 13th.

Q And was it after dinner that you and he exchanged confidences?

A It was partly through dinner.

Q Now, will you tell the Commission what was said between you and George Dasch then with respect to your mutual intentions?

A Well, it was a conversation which lasted about three hours, and I am afraid I cannot recall everything what was said, but it was the idea of the whole conversation, was, first of all, the conditions in Germany and the experiences he had over there--in fact, I did not do much talking, you see.

Q Did George tell you about the hardships that his people had undergone?

A He told me when he was a little boy and when he grew up--well, he told me all of his experiences, as much of his experiences as he could tell me inside of three hours about.

After that we started walking through this Radio City, and he explained to me--showed me different things and explained to me these mural paintings, pictures of the oppressed people and slave drivers, and all that, and the substance of our talk was that I knew exactly--I told him that I knew exactly what he was up to, because he hinted that he had a special plan which he had as a mission, more or less--had to carry out--and finally--I knew what was going on, see.

Q Will you tell the Commission what you knew? Just tell them what you knew from the talk that you had with Dasch there with respect to Dasch.

A Well, the substance of our conversation on Saturday night or Saturday--well, Saturday night--started before we had

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dinner and all during dinner and during the walk we had and up to about midnight.

I found out first that he had nothing to do with national socialism whatever--nothing at all--secondly, that he hated the regime over there, and, as I told you, that he had a mission which he had to carry out over here, and this mission consisted in fighting the present regime in Germany.

He did not tell me any definite plan--in fact, he did not tell me any definite plan as long as I was together with him, because I do not think he had any definite plan.

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Q I find on page 58 of your statement, which is in evidence, this paragraph, and I might say that this paragraph has reference to the same evening that you are just now relating, and I will read it:

"This convinced me that George was against the present regime, as I was, and that he did not wish to carryout the orders we had received. Then he told me he would have to put me through different tests before he explained what he intended to do. At this moment, I told him, right to his face, that I knew exactly what he wanted to do."

A Yes.

Q "His answer was that if I knew that, I would have to kill him."

A That is right.

Q "At that I smiled and told him that I was quite sure that our intentions were very similar. After this the restaurant became crowded and we left."

A That's right, sir.

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Q Does that correctly state the facts?

A Absolutely.

Q As connected with that conversation?

A Yes.

Q Now, the following day was Sunday, I believe?

A Was Sunday, sir.

Q And did you resume the conversation which was started on the Saturday evening on Sunday?

A Yes, Sunday morning until Sunday evening at 6 o'clock.

Q Did you and George at that time go into more detail about your mutual plans and ideas?

A No, not into detail about our mutual plans, but in details about his plans.

Q All right. What did he state to you on the Sunday, then, just briefly stated, that indicated what his plans were?

A Well, I recall very distinctly that he told me right in the beginning that we would have to fight it out if I meant the same--if I do not have the same opinion he has.

Q Or do you mean intention?

A Intention, I mean; intention.

Q Now, why did he say that you and he would have to fight it out if you did not agree with him?

A Well, because he told me he never had the idea of following orders and that was the reason why he did not care to study and listen to all that what was taught at the school.

Q He did not take any interest in the school because he never intended to carry it out?

A That's right. That's what he told me Sunday morning.

Q And that if you, on the other hand, were a loyal Nazi, because of what he told you you and he would have to fight it out?

A Yes, and he reminded me of the fact that we were fourteen--what do you call it?

Q Fourteenth floor?

A Yes, and the window was open.

Q And what would happen if you did not agree with him?

A That's right.

Q Well, what? Tell the Commission what was to happen if you did not agree with him.

A He told me that--well, that we would have to fight it out, you see, that's all.

Q And one or the other would go out the window; is that right?

A Out the window. That is a fact.

Q Of the fourteenth floor?

A Fourteenth floor.

Q And what did you tell him then?

A I believe I smiled to him and told him that there was no reason for anyone going out the window and there was no reason to fight it out, because I felt very much the same way, and I could have told him the day before, the night before, that that was the idea.

Q In other words, that you and he agreed and therefore there was not any occasion to fight; is that right?

A That's right. That's right, sir.

Q Now, I believe you and Dasch failed to keep a noon appointment?

A Yes, at the Swiss Chalet.

Q Where?

A At the Swiss Chalet.

Q And was that because of the intense interest that you and he were having in this conference? You talked, I believe, until 5 that evening, or 5:30?

A Yes. May I remind you that we were talking from morning until 6 o'clock in the evening?

Q It was one continuous--

A It was one continuous talking and more or less one-sided conversation, with the exception of making a telephone call at the Chesterfield Hotel, if I remember right.

Q Now, tell me this. Was it after you had met the other two boys that George called the F.B.I.?

A Yes, exactly--well, right after.

Q After you left the other two boys he called the F.B.I. office in New York?

A Yes.

Q Did you and he agree that that would be a good plan--to call the F.B.I.?

A Yes.

Q And did you know what he was going to tell the New York office, or did he relate to you after he came from the telephone what he told?

A Yes, he related to me afterwards.

Q Well, can you remember what he told you about the conversation?

A He told me that he got in touch with the F.B.I., that he was connected with an agent, after stating his desire to

talk to an agent of the F.B.I.; that he told this man that each has landed--well, from Germany, and that he wanted them to inform Washington that he would be up in Washington on Thursday, in order to see Mr. Hoover, and then the other man told him Mr. Hoover is very busy, and George Dasch explained to me that he told him, well, he will be more busy if he hears what he has to say.

I recall that very distinctly.

Then he said--the man asked him why he did not come down and if he was afraid of anyone, and then finally he gave ~~us~~ his name as Daniel--Franz Daniel Pastorius, and that's all, I think.

Q Then, you knew on Sunday night that he was coming down the following Thursday to Washington?

A I knew that Sunday morning already.

Q Sunday morning?

A Sunday before noon.

Q Now, will you explain to the Commission ^{why} Dasch did not want to talk immediately with the F.B.I. in Washington, if you know?

A I can't tell you that, because I don't know that, sir. I asked him what he was going to do and what his plans are, and he told me he has no plans and he could not--well, he was in no state of mind to make any plans.

Q In other words, his mental state was such that he did not feel equal to talking to the F.B.I. immediately; is that right?

A Yes. I think he did not feel like talking to anyone besides me, because he refused to see the other persons and

refused to talk to them also. He did not talk to anyone.

Q When was the last time that he met with you and the other two boys? Sunday night?

A I am quite sure, sir.

Q Did Dasch say anything to you about his playing cards and getting his mind off of everything?

A Yes, he did.

Q And that when he got his mind on the cards and off of everything else for a couple of days his mind cleared up and he was then ready to talk with the F.B.I.?

A Yes, that's right.

When he came back and when I saw him, I told him that I did not think it was the right thing for him to disappear for such a length of time, especially when he told me he was playing pinochle--that it was not exactly the right time to play pinochle at that time--and he told me that I should be glad that he did play pinochle, because he is now a different man and he is more or less his old self again. That's the way he stated it.

Q It cleared up the thing mentally; is that right?

A Well, that's what he stated.

Q So that he could state more intelligently and connectedly?

A Well, after he came back he was quiet and, as he told me, was ready to sleep, and I noticed that his hands did not tremble any more, as they did before, and that he was easier in his way of speaking, too.

Q And he did come on down to Washington on Thursday?

A Yes, he did.

Q Now, did you wait in the hotel therein New York to hear from Dasch or the F.B.I.?

A I did, sir.

Q I believe you got the letter which he left with the clerk?

A Yes, I did.

Q You did not get the other two letters he wrote you, however?

A I did not.

Q But they have been introduced here in evidence?

A Yes.

Q Now, when the F.B.I. came into your room were you surprised?

A No, I was not surprised.

Q Was your door locked?

A No--in fact, I told the agents of the F.B.I. that I was expecting them.

Q You were expecting them.

Colonel Ristine. I think that is all.

REDIRECT EXAMINATION

Questions by Colonel Royall:

Q Just one or two questions, may it please the Commission.

Pete, I believe you stated, in answer to the Attorney General's questions, that you insisted on using your own name?

A Yes.

Q And Kappe at first did not want you to, and you persuaded him to let you do so; is that right? State what the fact about that is.

A Well, I told him from the beginning--I must state it like this. When I came to him he told me I should go as a Czechoslovakian refugee with an entirely different name. The second story I had to prepare, or he prepared together with me, was that I should go as a Jewish refugee, but I did not intend to go under any false name, and I did not intend to leave my papers with Kappe, as he originally wanted.

He wanted me to give him my papers--in fact, it was the very last day that I got my gun permit back--which were all original papers, and the citizen papers also I got back the last day. I did not intend to leave my papers with Kappe, so he would furnish them to somebody else, who would use them--well, in coming over here. Besides that, I had no reason from the beginning to use a false name.

Q Who had the passport endorsement taken off that (indicating)?

A Kappe.

Q Did you know he had done it until you got it back?

A Yes, I did.

Q What did you tell him about it?

A It was his idea. He took it from me and told me that he would take this stamp off in order--he explained later, when I repeatedly asked for my papers--well, that he wanted to take that thing off.

Q When did he tell you that? After he had the paper?

A Well, just before we left.

Q How long had he had the paper before he first told you that?

A He had the paper from the--

Q Well, about how long?

A The second day I got to school. It was about four weeks later I got it back.

Q You did not have it taken off?

A No.

Q Pete, I think you explained this, but the language of some questions was not clear to me. Why was it more difficult for you or impossible for you to leave Germany from 1934 or 1935 up until the time of war than it would be for somebody else to have left Germany?

A Because I was employed by the Party. It was impossible for me to just disappear.

Q A party member could not leave Germany without--

A Without official business.

Q Without official business?

A It was impossible.

Q If you had left without permission it would have been illegal in Germany?

A That's right. In fact, we were not allowed to leave even the city without telling to our superior officers--that is, the job I had.

Q Now, I believe you stated that when you finally told the F.B.I., or when you told the F.B.I. as soon as they came in, the facts which were reduced to a statement, they promised you that those facts would not get back to Germany?

A That's right.

Q And that is the fact you relied on in telling them that; is that right, sir?

A That's right, sir.

Q I believe you stated that the group did not have confidence in Dasch as a leader; is that right?

A That's right, sir.

Q After Dasch told you that he was going to report the matter--and that was after you got to New York--you left the method of reporting it to him; is that right?

A I did, sir.

Q And he never told you that until the 13th or 14th?

A Until the 14th.

Q I believe you said that the fact that Kappe was careless about the gold certificates--

A Yes, that's right.

Q (continuing) --showed you how little the Germans cared for the safety of the people; is that right? Is that what you meant?

A I want to point out it did not mean anything as far as I am personally concerned, because I did not have any gold certificates, but it meant a lot to the other boys. I did not have any gold certificates.

Q I believe you already stated, in answer to a question of the Attorney General, that from 1934 on, and particularly after your confinement, you intended to get out of Germany in some way legal?

A Get out and get even.

Q And that was your sole intention in joining this group and coming to America?

A That's right.

Colonel Royal. No other questions.

The Attorney General. No other questions.

The President. The Commission would like to ask some questions.

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EXAMINATION BY THE COMMISSION

Questions by the President:

Q When you landed from the submarine, did any other member of your group know that you had marked the route from the landing place to the hiding place of the boxes?

A I don't know, sir.

Q How did Dasch find his way to that cache of the boxes in the darkness and fog?

A I didn't understand you, sir. To what? He found his way to what?

Q You left Dasch talking to a coast guardsman?

A Yes, sir.

Q That was some distance from where the boxes were buried or were being buried?

A Well, at that time when he talked to the coast guardsman, we didn't bury the boxes. May I explain shortly how that happened? The boxes were carried out from the boat onto the beach, and as soon as everything was out on the beach, it was again carried up to the foot of the bank; and in the meantime, when we all--we three boys--were with the boxes, which were just covered a little with sand, the coast guardsman approached George, and when the coast guardsman was gone, George came back. It was only a few feet off. Only a few feet. He came over from the place he was standing with the coast guardsman, walked to the foot of the bank, found us three boys, and everything was carried up the bank and further away.

Q Were Dasch, Heinck, and Quirin the only men who came ashore with you from the submarine on Long Island and remained ashore?

o2

A Yes.

Q When did the sailors go back to the submarine?

A When I came back--when I wanted to carry back or bring back the sea bag to the rubber boat, and I saw George talking to the coast guardsman, I didn't see the boat any more, so the boat must have left with the two sailors shortly after George came together with the coast guardsman.

Q Who gave them orders to go back to the submarine?

A Well, I didn't hear George giving the orders, but he told me that he had given the orders to those two sailors.

Q Before he saw the coast guardsman?

A No, when he saw the coast guardsman or after he saw the coast guardsman.

Q How long did the submarine lie off the beach?

A It was quite a long time--a very long time--after we had buried the boxes when we heard the motors.

Q Several hours?

A I couldn't say, but it was a very long time; in fact, we heard the motors twice.

Q During the night?

A Well, after we had buried the boxes.

Q Could you see it?

A No; we only saw these skyrockets.

Q The what?

A The signal rockets--what you call it?

Colonel Royall. Skyrockets.

Colonel Ristine. The signal rockets or flares.

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Questions by the President:

Q From the submarine?

A I don't know if they were from the submarine. I don't believe that. It might be that they came from the Coast Guard. We noticed several times green--these green signals, signal rockets, or what you call them.

Q Did you hear the motors of the submarine after those signals?

A That was the second time I heard--was afterwards.

Q Was that shortly before you left to go to the road?

A Yes.

Q How did you expect to find the hiding place of the boxes when you came back for them? Did you have the place marked in any way?

A Well, I didn't intend to come back, sir; that is as much as I know.

Q How did the others expect to find them? Well, I will not ask you that question.

A It was easy. May I explain? It was easy to find the boxes, because there were all different things all around the boxes and leading up to the boxes and also away from the boxes.

Q Did you or any other member of the group with you mark the place in any way on your leaving the boxes?

A As much as I knew, it wasn't specially marked; no, no.

Q When you got out to the road, did you take your bearings as to where you reached the road, so that you would know another time?

A No.

Q You have stated on cross-examination that you

o4. suspected that George Dasch would not carry out the plans. What other suspicions did you have? What other suspicions did you have about any others?

A You mean as far as others?

Q What other suspicions did you have about Dasch or any of the others in the group? We will say about George Dasch, first.

A Well, that is very hard to explain, because, you see, nobody--none of us could afford to take the others--or to come right out clear with his ideas what he really intended to do or what he not intended to do. Nobody could afford that, because not one knew if he could trust the other one.

So, to my surprise, I heard here in the courtroom that almost none had the intention of carrying out any orders. But if I think back, there are several small instances where you could more or less feel that it was not sincere, see? There is no fact I could tell you or no--well, I can't prove it by anything.

There is, for instance, a remark. Well, it is very hard for me. You see, I am used to only to tell you or explain facts. But there is a small remark, for instance, Kerling made in Paris when we were standing near the Navy Ministry and the guards--the German guards--marched by.

He was standing next to me, and he asked me, "Listen. What do you think about your group?" and I answered, "Well, I don't really think very much of my group. I know Heinck--Henry--he is not a hundred percent saboteur, as you may call--he really isn't; and, on the other hand, George Dasch is not an ideal leader for a mission like we have orders."

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I explained that to him, and Kerling answered, "Well, there will be a way to get out." Now I see, of course, these remarks in a very different light as at that time. Everything means something now.

Q Did you know at that time that Kerling was the assistant leader of the group?

A No. I am talking about the leader of the second group.

Q Kerling?

A Kerling.

Q I will put the same question: Did you at that time when you were in Paris know that if anything happened to Dasch, Quirin would be the next leader?

A That was explained to us in Lorient; and, in fact, there was a friction between George Dasch and Kappe on account of that.

Q Who do you suppose they did not make you the leader?

A Well, Kappe wanted to make me the second leader, and Dasch opposed it; and, in fact, Dasch told Kappe that--in front of the other two boys and in front of myself--that he had no confidence whatever in me and that I would not be able to be a leader of any group in the United States because my English was so very bad, that I just didn't have the ability, and besides that I looked so very much like a Dutchman, he says, that it was no use of giving me any responsibility whatever.

Q Why do you suppose, when all your group was so suspicious of Dasch back in the school at the time you were in the school, Kappe and Barth trusted Dasch so?

A Well, later I found out that Barth is related to him;

o6

I didn't know that at school. I think nobody knew that. Then I found out that Dasch worked for a few months together with Kappe, making out plans and working at the office of the headquarters, so it seems he must have--I don't know, but I do know that Kappe did whatever Dasch wanted and that Dasch could do anything he wanted to do at school. He came late. For instance, he came late. Well, he was exactly the contrary of a soldier. We had all uniforms. He came in civil clothes. You see, we all had our standard uniforms at the school. When we had sport, he did something else.

Q What did you think at that time was the reason for Kappe's confidence in him?

A Well, in fact, I didn't like it, and I couldn't explain it. You see, it is very simple. I am a soldier; and if a soldier feels that another soldier always is preferred and that he can do what he wants, and the other one has to obey, that is not good for the spirit of the troop.

Q Did you think at that time that possibly Dasch was a fanatical Nazi or idealistic Nazi?

A No, he wasn't. He never was. In fact, I don't believe that--you see, in order to be a fanatical Nazi, a man has to study National Socialism and know something about it. I believe in order to be a fanatical Nazi he has to cooperate and stand a lot and go all through that, and he didn't. He couldn't be a fanatical Nazi.

Q Did you consider the other members of the group in the Army or not in the Army at the time you were in the school?

A Well, first of all, it was a school which did belong and was the property of the German High Command. The

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housemaster was a member of the Army. He was a noncommissioned officer. The leader of our school was Lieutenant Kappe.

I heard the remark made by Lieutenant Kappe that all of us, or all the other boys which did not belong to the Army before they joined this school, were assigned to the Army. On the other hand, when Kappe talked to me about the contract, he told me that he could take me out of the Army pay--out of the Army--and make a contract as a civilian with some certain amount of money as payment, like anyone would employ somebody for monthly payment.

Q In other words, an agent?

A Well, I suppose you could call it an agent, but I refused it, so here is two different versions on the matter. In my case, I know that I was officially transferred to a formation near this school. I came in uniform to Brandenburg, got by the Army station there with civilian clothes, put them on, and came out of the school.

Q You spoke of the others at the school, excepting George Dasch, wearing standard uniforms.

A Yes. He also had one. He wore it several times.

Q Were they issued to you at the school?

A Yes, sir.

Q What branch of the service or of the German Army did they belong to?

A They were not German uniforms, sir; they were black, former Czechoslovakian uniforms--dyed black.

Q Why do you think they were issued to you?

A Well, they explained it that in order to protect our own civilian clothes.

o8

Q In other words, they were available? They had no mark in themselves? They did not mean that you were in the German Army?

A No.

Q While you were at the school, did you just naturally consider that the other members were soldiers? That is, the other members of those two groups who were there with you? Did you think of them as soldiers when you were there?

A Well, as far as their actions were concerned, with the exception of Neubauer, I couldn't think that they were soldiers. That is a fact, because while I don't have to go into details, they were no soldiers--actual soldiers. But, on the other hand, my reason told me that if it is a school which belonged to the German headquarters, and all that, then they must be somehow connected with the Army, and all that.

Q You mentioned a conversation with Kappe on this subject?

A Yes.

Q What caused him to tell you that you were all soldiers?

A I am quite sure I asked him; in fact, I recall now I spoke on the occasion when we had to wear the uniforms in Lorient, going from the hotel to the submarine, in case--I told him, "Listen. How is it if we walk around in these uniforms and the boys don't know how to salute a passing officer, or something like that?"

He said, "Forget it. They are all in the Army. Since February, 1942, they were all assigned to the Army"; but I don't know. That is all I know.

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Q You spoke of yourself as being a trained soldier. Where did you get your training?

A Well, the last--I had three different trainings in the German Army. The last training I received--that was after I came from the Gestapo.

Q You also spoke of being in the American Army?

A In the National Guard, sir.

Q In the 125th and 126th Infantry?

A 127th, sir.

Q You also spoke about bringing your discharge papers back to the United States?

A Yes, sir.

Q What character was given you on those two discharges?

A Excellent, sir.

Q In both cases?

A Yes, sir.

Q Who signed them?

A One was signed by--I don't remember. My captain was Szulakiewicz in one; the other one was signed by Captain Jackson. He was my commanding officer. But there was also a letter of recommendation by my captain in order to secure a job in Wisconsin.

Q What do you consider Dasch if he is not a Nazi?

A Pardon me, sir?

Q You stated that you did not consider Dasch a Nazi?

A No.

Q What do you consider him if he is not a Nazi? How would you describe him?

A You mean as far as his political ideas are concerned?

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Q Yes.

A Well, that is very hard to make a definite answer. I myself--I studied, and I had to study, in order to know about all different forms of governments. It is very hard to guess, as much as I know of George's opinion on general things--to class him in one party or ideal.

Q How would you describe him in talking to somebody who had heard him talk and had said, "Well, what kind of fellow is Dasch, anyhow?" What would your answer be to that? What would you say in German?

A Well, you see, talking about George Dasch, sir, you can't say that in one word. You could not. You want me to give a value? Is that the idea, sir?

Q Yes.

A Well, I don't think I could do it with just one or two words.

Q Well, do it with one or two sentences. Just give me your frank opinion.

A I believe that he in his work as a salesman, which he really was--his former occupation--

Q As what?

A As a salesman. I mean now, as far as he is concerned, a man in his work--I am quite sure, I am convinced--

Colonel Ristine. I did not catch what you described him as, first.

The Witness. Talking about his ability and his occupation and his job and his work, he is a first-class salesman.

Colonel Ristine. I did not catch that.

The Witness. As a man, I think you could trust him as a

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friend; I am quite sure of that. As far as his political ideas are concerned, I do not think that he has any clear view, with the exception of fighting against injustice done over there right now. I believe that he is--that that is the main thing which occupies his mind right now and pushes everything back in the background.

Questions by the President:

Q You stated that you and the defendant Dasch had a conspiracy against Germany?

A Yes.

Q When did you and Dasch enter into this conspiracy?

A Well, sir, it was--I tried to answer the question which was mentioned by the prosecution just before the recess. The talk was about conspiracy. I was trying to explain--and I want to mention I have no legal mind whatever; I am just as I said in my way of being a soldier--that if there is any conspiracy, why, the conspiracy we made was not against the United States, so, on the other hand, it must have been against Germany.

Q Did you ever know the leader of Germany, Hitler?

A Yes.

Q Personally?

A Yes.

Q Intimately?

A Yes, sir.

Q As a member of the Nazi Party, you mentioned taking a personal oath to him?

A In 1923, sir.

Q That was when you became a member of the party?

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A Yes, as a storm trooper; and after I came back from the Gestapo, as every soldier, drawn up in a square, the second week after they get drawn into the Army, they have to repeat the formula of allegiance to the highest commander of the Army, which is Adolf Hitler.

Q Do you consider yourself still loyal to Hitler?

A I do not consider myself, sir, because I am not a German citizen any more. When I came back from the United States, I did not reapply for German citizenship.

Q You considered yourself, while you were in Germany, still an American?

A Well, I didn't do that either. I have to tell the truth. I didn't consider myself as an American either. I came back, and I worked in and for the Party, and in 1934 that happened: that blew up everything, every ideal, and--well--

Q Was that when you lost your loyalty to Hitler?

A That is right.

Q Because he killed your friend Roehm?

A All of them; not only Roehm; there were thousands of them.

Q At any time while you were under the control of the Gestapo, were there any charges made against you as a non-Aryan by the Gestapo?

A No, sir. That was the idea given to me by Kappe, which I should use in order to help myself along over here, and that isn't true. I should pose as a refugee; but if I am a refugee, I am not a Jewish refugee.

Q You were accepted as an Aryan by the Nazis?

A Yes. I had to prove--they all have to prove--that

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away back to 1700 and so and so.

Q Did you at any time consider yourself in personal danger from the others of your group?

A I had a very uncertain feeling once. I wouldn't say personal danger; I don't know.

Q What were the instructions of Kappe to each and every one of you as to your action in case any others of the group failed in their mission or their loyalty to Germany?

A It was pointed out to us, not only once but repeatedly, and also at the last meeting we had at the Zoo Restaurant, where the official banquet was, in order to farewell and give us last introductions to the high bosses of the German High Command--it was pointed out clearly, and there is quite a number of witnesses for that, even if their memory is not so good any more, that anyone who exposes the plan has to be removed, and if anyone kills another of the boys because one squealed--they told him very plain that he didn't have to be afraid of any consequences when he came back to Germany.

Q Do you consider Dasch a loyal German?

A No.

Q You spoke of yourself as being charged with establishing a front as a commercial artist in Chicago?

A Artist, yes.

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Q Do you know a commercial artist in Chicago by the name of Otto Brennemann?

A No.

Q You spoke of and described the uniform that was issued for coming over to America on the submarine as being apparently a complete uniform, but you specifically said "No belt."

A There is no belt.

Q Was there any reason why you stated that?

A Yes, I had a reason for stating that, because one of the other boys stated in one of his statements over here that we received belts. We did not receive any belts.

Q There was no other reason?

A That was the only reason, sir.

The President. Are there any questions by the members of the Commission? There seem to be none.

RECROSS EXAMINATION

Questions by the Attorney General:

Q I had one or two things that were suggested by the Commission's questions.

If one of the members of your group squealed, were you instructed to report that back to Germany?

A No. We had no possible way of reporting anything back.

Q Well, you had certain names on the handkerchief?

A I did not know about the names on the handkerchief.

Q If one of you were arrested or caught, what were your instructions?

A Well, as far as instructions are concerned, I don't

2b

know any, but I do know that in case we were arrested our contract said that the pay would probably cease--you know what I mean--that the pay which was given to our folks at home--that that would stop--would be stopped.

Q. Didn't you ever discuss with Kappe or with anybody else there what would happen if you were arrested, what you were to say?

A What would happen to whom? To me? To anyone?

Q What you were to do if you were arrested. What were you to say? What was your story to be?

A Well, the consequences were clear.

Q I did not say the consequences. If you were arrested were you told to say what you were doing?

A I do not recall that, sir.

Q You did not discuss that, you think?

A It was discussed. I am quite sure it was discussed. Now you are speaking of that, I am trying to see what it was. I do not recall at the present time.

Q There was no plan?

A What do you mean, plan?

Q There was no plan in case you were caught as to what you should say? Wasn't it planned out?

A I do not remember that, sir.

The Attorney General. That is all.

FURTHER REDIRECT EXAMINATION

Questions by Colonel Royall:

Q Pete, am I correct in my recollection that you stated that before you knew the Coast Guardsman was there you started marking the way to these boxes, and after you learned he was

3b

there you continued to do so?

A Yes, that's right.

Q Did you explain fully to the F.B.I. when you reached your intention of seeking to escape from Germany back in 1934 and about the concentration camp and those circumstances?

A Yes, I did.

Q They are set out in your statement, are they?

A There's quite a number of different things I said which are not in the statement.

Q You did tell them substantially all that is in the statement?

A Yes, I did.

Q Are these your two discharges from the Army (handing documents to the witness)?

A Yes, sir.

Q One signed by-- Do you know that name (indicating)?

A No, sir.

Q Howard H. Jackson, Captain, 125th Infantry?

A That's right, Michigan.

Q And the second, Walter J. Szulakiewicz?

A Yes.

Q And these are two letters from Captain Szulakiewicz?

A May I see the second one?

Q Yes, and in the second letter it refers to the fact that you left America because of lack of work?

A That's right, sir.

Colonel Royall. We would like to have these marked for identification. We offer them in evidence.

The President. I think they are on the record, are they

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not, in view of the questions?

Colonel Royall. They are referred to in the record, but were not copied in the record. I thought we could use these photostats.

(Letter from Captain Szuiakiewicz, dated May 26, 1933, was received in evidence and marked Defendant's Exhibit H.)

(Letter from Captain Szuiakiewicz, dated September 30, 1933, was received in evidence and marked Defendant's Exhibit I.)

(Discharge of Burger, dated June 1, 1933, was received in evidence and marked Defendant's Exhibit J.)

(Discharge of Burger, dated October 22, 1931, was received in evidence and marked Defendant's Exhibit K.)

Colonel Royall. Unless the other parties desire them read, I do not care to read them, but I would like to have them spread in the record.

The President. They were both excellent discharges?

Colonel Royall. Yes, sir; and the letters themselves do contain some information about employment that I would like the Commission to read. One of the discharges has an especially complimentary remark.

(DEFENDANT'S EXHIBIT H)

"WISCONSIN NATIONAL GUARD

Company K, 127th Infantry, Wis. N.G.
(Organization)

Milwaukee, Wisconsin
(Station)
May 26, 1933
(Date)

"To whom it may concern:

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"This is to certify that Ernst P. Burger, has been a member of Company K, 127th Infantry, Wisconsin National Guard since October 19th, 1931, under my command, and it is with pleasure that I recommend him for whatever he undertakes.

"During his service he has proven himself honest and reliable in all his duties and above all his loyalty was beyond reproach, and my regret is in losing him as a member of my organization and as a friend.

(Signed) Walter J. Szulakiewicz,
Captain 127th Inf., Wis. N.G.
Commanding.
3226-So. 12th St."

- - -

(DEFENDANT'S EXHIBIT I)

"WISCONSIN NATIONAL GUARD

Co. K. 127th Inf. W. N. G.
(Organization)

Milwaukee, Wis.
(Station)

September 30, 1933
(Date)

Mr. Ernest Burger,
Volkant Str. 8,
Augsburg, Germany.

My dear Ernest:

"I received your letter of September 18th, 1933, and was very happy to hear that you are getting along nicely.

"I read your letter to the entire organization. The boys in return are sending you many happy wishes and are hoping to see you again.

"I have forwarded your final check for \$1.95 to

6b

Miss Fink as requested in your letter. No doubt you will hear from her shortly.

"I am enclosing herewith your honorable discharge and I have no doubt but what you will be proud of same to show your family and friends of your excellent service in the National Guard. Quite a change has taken place in the organization since you left. Your friends from South Milwaukee are not members any more. They obtained positions and are working such long hours that I thought it best to discharge them :

"The employment situation has improved a great deal. Practically all the members of the organization are now working. It appears to me that you left at the wrong time.

"Hoping to hear from you in the near future, and with best wishes, I remain

"Sincerely yours,

"(Signed) W. J. Szulakiewicz
Capt. Comdg. Co. K. 127th Inf."

- - -

(DEFENDANT'S EXHIBIT J.)

"NATIONAL GUARD OF THE UNITED STATES

AND OF THE STATE OF WISCONSIN

To all whom it may concern:

"This is to Certify, That Ernest P. Burger Prvt. 1 cl. Company 'K' 127th Infantry Wisconsin National Guard as a Testimonial of Honest and Faithful Service, is hereby Honorably Discharged from the National Guard of the United States and of the State of Wisconsin by reason of Acct of

7b

Removal fr. Co. Sta. par. 18 S.O. 152 A. G. O. this June 1/33.

"Said Ernest P. Burger was born in Augsburg, in the State of Germany.

"When enlisted he was 25 years of age and by occupation a Draftsman.

"He had Grey eyes, Blonde hair, Fair complexion, and was 5 feet 6 inches in height.

"Given under my hand at Crandon, Wisconsin, this 1st day of June, one thousand nine hundred and Thirty-three.

The Adjutant General's Office (Sgd) F. W. Kerrier
Comd. 127th Inf. Wis.N.G.
Madison, Wis. June 23, 1933
Commanding

Approved:

By Command of the Governor,

(Sgd) N. M. Schautz,

Asst. Adjutant General."

(Reverse side of Defendant's J)

"ENLISTMENT RECORD

Name: Ernest P. Burger Grade: Pvt. 1 cl.

Enlisted Nov. 6, 1931, at Milwaukee, Wis.

Serving in First enlistment period at date of discharge.

Prior service: Enl. Co. A. 125th Inf. Mich. N.G. June

17/31. Has Disch. as Pvt. Oct. 21/31 acct. of removal

fr. State par. 12 S.O. 247 A.G.O. Mich.Res.

Noncommissioned officer: Never.

Marksmanship, gunner qualification or rating: Rifle M.M.

org. G. O. 14 A.G.O. Wis. Dec. 1/32.

Horsemanship: Not mounted.

8b

Battles, engagements, skirmishes, expeditions: None

Knowledge of any vocation: Tool & die making

Wounds received in service: None

Physical condition when discharged: Good

Typhoid prophylaxis completed 4/17/33

Paratyphoid prophylaxis completed 4/17/33

Married or single: Single

Character: Excellent

Remarks: Service honest and faithful

Signature of soldier: Not available Ernest P. Burger

(Sgd.) Walter J. Szulakiewicz

Capt. 127th Inf., Wis. N.G.

Commanding Co. K."

- - -

(DEFENDANT'S EXHIBIT K)

"NATIONAL GUARD OF THE UNITED STATES

AND OF THE STATE OF MICHIGAN

To all whom it may concern:

"This is to Certify, That Ernest P. Burger, Private, Company A. 125th Infantry, National Guard Reserve as a Testimonial of Honest and Faithful Service, is hereby Honorably Discharged from the National Guard of the United States and of the State of Michigan by reason of Removal fr. State, par. 12 S.O. 247 A. G. O. Mich., Oct. 21/31.

"Said Ernest P. Burger was born in Augsburg, in the State of Germany.

"When enlisted he was 25 years of age and by occupation a Draftman. He had Grey eyes, Brown hair, Light complexion, and was five feet five inches in height.

9b

"Given under my hand at Detroit, Michigan this
22nd day of October, one thousand nine hundred and
Thirty-One.

"(Signed) Matthias A. Weisenhauser

"Lt. Col. 125th Inf.

"Commanding."

(Reverse of Defendant's K)

"ENLISTMENT RECORD

Name: Ernest P. Burger Grade: Private

Enlisted June 17, 1931, at Detroit, Michigan.

Serving in First enlistment period at date of discharge.

Prior service: None

Noncommissioned officer: No

Marksmanship, gunner qualification or rating:

Horsemanship: Not mounted

Battles, engagements, skirmishes, expeditions: None

Knowledge of any vocation: Draftsmen

Wounds received in service: None

Physical condition when discharged: Good

Typhoid prophylaxis completed No

Paratyphoid prophylaxis completed No

Married or single: Single

Character: Excellent

Signature of soldier: Ernest Peter Burger

"(Signed) Howard H. Jackson

"Capt. 125th Inf.

"Commanding Co. A."

10b

FURTHER RECROSS EXAMINATION

Questions by the Attorney General:

Q Just one question occurs to me. You said just now that there were a good many things omitted from the statement you gave the F.B.I.?

A Oh, yes.

Q What things were omitted?

A Political things.

Q You mean about your political ideas?

A About the political situation over there, about the number of Gestapo agents working in Central America and South America, and a number of different, more or less important things; but not connected with this case.

Q Not connected with this case?

A No, sir.

Q Simply information that was useful to the F.B.I.?

A That's right, sir.

The Attorney General. That is all.

The President. The Commission has one more question.

Questions by the President:

Q Do you remember whether or not Kappe told you to confess in case one or all of you were caught?

A No, sir. On the contrary, in case anyone got caught we were not to tell anything. That was understood. That was understood from the beginning. That was understood from the beginning.

Colonel Royall. May I ask one more question?

The President. Yes.

11b

FURTHER REDIRECT EXAMINATION

Questions by Colonel Royall:

Q In fact, you had a pledge of secrecy that covered that, did you not?

A Yes.

Q What was the penalty if you violated the secrecy?

A Death.

Colonel Royall. I would like to ask the Commission to take time to glance at these letters, since I did not read them.

That is all.

The Attorney General. We have no more questions.

The President. There seem to be none by the Commission.
The witness is excused.

Colonel Royall. May it please the Commission, we desire to offer in evidence a confidential letter from the Adjutant General, to which is attached one confidential War Department letter of March 18, 1942, which is referred to in the Adjutant General's letter, and a map called the Army Service Map, also referred to in the Adjutant General's letter.

The Attorney General. We object to the offer, may it please the Commission, and would like to have the officer called who is familiar with the order. General Cramer can best explain the reason for that.

In the second paragraph of the letter appears the following:

"The name of the Eastern Theatre of Operations is changed to Eastern Defense Command. The Eastern Defense Command will not be a Theatre of Operations."

That was done for the specific purpose of avoiding the operations which were done in the furnishing of supplies with reference to certain specific operations, and I think this offer would be extremely confusing unless the circumstances under which this order was made were explained and why it was redefined in this way.

I would like General Cramer to add a word about it.

Colonel Royall. May I say this, before General Cramer says anything? We are not trying to keep any facts out. If General Cramer personally knows of any circumstances which would qualify or explain that letter, we have no objection to its going in the record as a fact, if he personally knows it. But we do think the order itself should be admitted.

The Judge Advocate General. I only know as I have been told from the people that have been talking about it. I do not know myself. The commander general of the theater of operations is generally responsible for the supplies. First they called it the Eastern Theater of Operations. They never called it by that name on the West Coast. It was the Western Defense Command. So they changed the name of the Eastern Theater of Operations to the Eastern Defense Command.

In order not to put the burden upon the commander general of supplying all these organizations there and keeping it with the S.O.S., they inserted in there that the Eastern Defense Command will not be a Theater of Operations, so far as the supplying and administration of it is concerned.

However, what is a theater of operations is a question of fact. An actual theater of operations comes within the rules of land warfare.

13b

If you are satisfied with that explanation, we have no objection. Otherwise we would like the officer who certified that and knows about it--

Colonel Royall. We have no objection to any of the facts stated by the Judge Advocate General. We might object to his conclusions drawn therefrom.

The Attorney General. We are not satisfied with this exhibit going in unless the officer who is familiar with the reason for the letter of March 18, 1942, is here to explain it.

I do not think this offhand speculation, particularly for those who are not familiar with the reasons for it, is sufficient for our purposes. Therefore, we must object to the offer from any point of view and request that the officer familiar with it be called. It is a very vital and important thing, as you can readily see, particularly if this record is used elsewhere.

Colonel Royall. In view of that statement, I withdraw our admission about the facts, if you do not want us to admit them.

I still offer this in evidence. It is in the same form as evidence offered by the prosecution and accepted by the Commission. I see no reason why it should not apply to us as well as to them.

The Attorney General. I object to this for the reasons I have stated. I do not think that this is even an official or certified document, but I will object to it from every point of view. It is improperly proved, improperly identified, and does not really state the basis of the order, which, to clarify the record, should be clarified by the officer who made it.

14b

Is there any certificate on it?

Colonel Royall. No, but it is a War Department letter and it was in effect. This is an Army Map, and it was in effect.

The Attorney General. I am being highly technical. I object to it as being improperly identified and as being not material.

Colonel Royall. I do not know how you can have any more certificate than that.

The President. Are there any other witnesses to be called this afternoon?

Colonel Royall. We have two very short witnesses.

The President. This is off the record.

(There was a discussion off the record, after which the following occurred:)

The President. Unless there is objection on the part of any member present, this can be admitted in evidence, and, of course, the explanation that has been given by the Judge Advocate General is also in the record to explain it from the side of the prosecution, and also that you can furnish any other information that you care to submit about it.

Colonel Royall. We have no objection, if they want to rely on the Judge Advocate General's statement, to admitting as evidence any facts which he stated. He had some argument in there which, of course, we do not admit.

(Confidential War Department letter, dated July 27, 1942, together with attached letter dated March 18, 1942, were received in evidence and marked Defendant's Exhibit L.)

(Army Service Map, attached to above letter was received in evidence and marked Defendant's Exhibit M.)

15b

Colone1 Royall. I wondered if the Commission wanted to take a five-minute recess.

The President. We will take a ten-minute recess at this time.

(A short recess was had, after which the following occurred:)

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The President. The Commission is open. Come to order and proceed.

In order to make sure that the record is clear, I should like to have the reporter read the admission as to the official document from the War Department.

Colonel Munson. Before proceeding, may the record show that The Judge Advocate General is temporarily absent from the courtroom following the recess.

The Reporter (reading):

"Unless there is objection on the part of any member present, this can be admitted in evidence, and, of course, the explanation that has been given by The Judge Advocate General is also in the record to explain it from the side of the prosecution, and also that you can furnish any other information that you care to submit about it."

The President. We are not concerned about the official part of it. I understand that you are sending for a witness to add to the information?

The Attorney General. General Cramer is now trying to get a witness. He is on the telephone at this minute.

The President. But not purely to certify to it?

The Attorney General. Oh, no; to explain it.

The President. Yes.

Colonel Ristine. If the Commission please: In explanation of Mr. Burger's statement that Dasch argued against Burger's being his assistant, I should like to read one paragraph of the Burger statement into the record as explanatory of that.

o2

The Attorney General. It is already in the record; I do not quite see the purpose of putting it in twice.

Colonel Ristine. I just desired to have it in.

The President. If there is no objection, you may read it in.

Colonel Ristine. I am reading from page 49, the first paragraph on the page:

"The cause of this argument was that George Dasch had stated that he saw no reason why the group should engage in any activities whatsoever in the United States for three or four months after their arrival there. I am sure he had in mind the fact that this would give him sufficient time to expose the plan. Kappe, on the other hand, ordered the group immediately after our arrival in the United States to begin work in a small way. Another cause of the argument was that George wanted me to go with him, while Kappe wanted me to go with Henry. The reason George wanted me to be with him was, as previously stated, we had, without openly confiding in each other, arrived at an understanding as to each other's attitude toward the present regime in Germany. Kappe had instructed that I should go with Henry Heinck and that George should go with Richard Quirin. However, George told Kappe that he had no confidence in me, and did not believe that I should be allowed to go with Henry. This caused another argument between Kappe and George, but George won, and it was agreed that I was to accompany George. I was to travel with George when

03

we arrived in the United States, prior to our establishing headquarters in Chicago."

Colonel Dowell. Mrs. Kerling.

Colonel Royall. With the permission of the Commission, I should like to be absent during the examination of the next two witnesses.

(At this point Colonel Royall withdrew from the courtroom.)

Lieutenant Page. Mrs. Kerling. This witness has not been sworn to secrecy.

Colonel Munson. Mrs. Kerling, the Commission before which you are appearing requires of all witnesses the taking of an oath as to the secrecy of these proceedings. The Commission further instructs me to inform each witness before the taking of the oath that violation of the oath may result in proceedings in contempt or other proceedings of a criminal nature. Therefore, in taking the oath, you understand that to be the fact, do you not?

Mrs. Kerling. Yes.

Colonel Munson. Hold up your right hand, please.

Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by such proper authority, so help you God?

Mrs. Kerling. So help me God.

Colonel Munson. Do you swear that the evidence you shall give in the case now on hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

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Mrs. Kerling. I do.

Colonel Munson. You may be seated.

What is your full name?

Mrs. Kerling. Marie Kerling.

Colonel Munson. Where is your residence?

Mrs. Kerling. In New York City.

Colonel Munson. What street address?

Mrs. Kerling. 326 East 51st Street.

Colonel Munson. What is your occupation, if any?

Mrs. Kerling. Cook.

Colonel Munson. Your witness.

MARIE KERLING

was called as a witness for the defense and testified as follows:

DIRECT EXAMINATION

Questions by Colonel Dowell:

Q Mrs. Kerling, how do you spell your first name, please?

A Marie - M-a-r-i-e.

Q You are the wife of the defendant Kerling?

A I am.

Q How long have you been married to him?

A Since 1930.

Q Do you know that he recently returned from Germany?

A Well, I didn't until somebody else told me.

Q When did he return?

A When he came over in this country? I don't know what date.

o5.

Q About how long ago?

A Well, I was told on Tuesday that he is in this country. That was on the 23rd.

Q When was the last time you saw him before that?

A Just before he returned to Germany.

Q Before that?

A Yes, about two and a half years ago.

Q How long?

A About two, two and a half years ago.

Q When did he leave for Germany on that trip?

A I don't know. Was it 1939 or 1940?

Q What happened in 1939? Did your husband make an effort to go to Germany in 1939? Do you remember?

A Yes, he tried to go home.

Q With what result?

A He couldn't go.

Q Why?

A The Government had stopped him.

Q What effort was he making to go?

A Well, they bought a boat. They tried to sail over there.

Q From where?

A Well, I don't know which way they wanted to go, but they went down to Miami with the boat.

Q The Government stopped it, you say?

A Yes.

Q Where did your husband go then?

A He came back to New York.

Q Was he employed?

o6

A Not at that time, no.

Q Did you know that he was trying to go to Germany in 1939?

A Yes.

Q Did you know that he finally went to Germany?

A Yes.

Q When?

A He sailed on the American Export Line.

Q In what year? Do you remember?

A I guess it was 1940 or 1939.

Q You think maybe it was in 1940?

A Yes.

Q Have you been happy with your husband?

A Well, yes--yes and no.

Q Just explain what you mean by "no."

A Well, when we were working together, we were not so happy.

Q What do you mean by "when we were working together"?

A We were working as a couple.

Q As a couple?

A Yes.

Q Doing what?

A Doing domestic work.

Q In a family household?

A Yes, that is right; a private house.

Q What work were you doing?

A I was the cook.

Q What was your husband?

A He was the chauffeur.

o7

Q That was the time you had your trouble?

A Yes.

Q How serious was that trouble?

A Well, Eddie wanted a divorce.

Q Do you know why?

A Well, we couldn't get along.

Q Did that trouble clear up later?

A Yes, it did.

Q Why?

A Well, I guess the reason of the trouble was we were too much together.

Q Well, you were still together, were you not?

A Yes.

Q What was it that happened that caused the change?

A Well, when the war broke out, Eddie gave up the job.

Q When what war broke out?

A In Europe.

Q Why did he give up the job?

A Why?

Q Yes.

A Well, Eddie wanted to go home.

Q By "home" you mean--

A Germany.

Q You know where he was going?

A Yes. He told me he wanted to go home.

Q After his return in, I think you said, 1942, you found out where he had been?

A In Germany?

Q You found out he had been in Germany?

o8

A Yes.

Q Do you know Hedy Engemann?

A I do.

Colonel Dowell. May it please the Commission, the reason for these questions will appear when the next witness is called.

Questions by Colonel Dowell:

Q Is she a friend of yours?

A Yes, she is.

Q A close friend?

A Not too close.

Q For how long?

A I know her about a year.

Q About a year? Where did you know her?

A I met her through Mrs. Neubauer.

Q Where?

A In New York City.

Q While your husband was in Germany from, you think, 1940 to 1942, did he communicate with you?

A He did.

Q How many times?

A Oh, I got quite a few letters from him.

Q Did he ever ask you to come to Germany to be with him?

A Yes, in each letter.

Q Did he ever arrange for your passage?

A I had a chance to go home.

Q What was your condition as to health during the time he was absent?

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A Well, I wasn't well.

Q Go on and tell more about it.

A Well, I tried to save up to have an operation, and I wanted to go home after the war.

Q What did you tell your husband, if anything, with reference to coming over to Germany?

A I kept on telling him that I will come home after the war.

Q After the war?

A Yes.

Q Did you tell him why?

A No.

Q You say he arranged for your transportation at one time?

A Well, I had a chance to go home, yes.

Q What do you mean by "a chance"?

A The German Consul called me down and asked me if I wanted to go home, and I said, "No."

Q Did your husband fully understand why you would not come to Germany?

A No, he didn't.

Q Do you mean you did not tell him?

A No, I didn't tell him.

Q Did you not tell him you were sick and needed an operation?

A No, I didn't.

Q Did anyone else know what opportunity you had to go to Germany? Did any of your friends know about it?

A I don't know; probably, yes.

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Q Pardon?

A I guess so.

Q Who?

A It is Mrs. Baker.

Q Did Hedy Engemann know anything about it?

A Hedy? Yes, I told her I wouldn't go home.

Q Well, you did talk it over?

A Yes, I told her I would go home after the war.

Q Well, how did you talk it over? What did you say to each other?

A I didn't give her any special reason; I just said I wanted to go home after the war and have the operation over while I am over here.

Q Did you have the operation?

A About three months ago.

Colonel Dowell. No further direct examination.

(At this point The Judge Advocate General entered the courtroom.)

CROSS-EXAMINATION

Questions by the Attorney General:

Q Where were you born, Mrs. Kerling?

A Germany.

Q You are a German citizen now?

A Yes.

Q You tried to get back to Germany in 1939 with your husband when he bought that boat?

A No.

Q Were you on the boat?

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A I visited my husband on the boat.

Q You were not trying to get back when you were on the boat?

A No.

Q You were just visiting your husband?

A Yes.

Q Why was he trying to get back?

A Well, quite a few fellows wanted to go back.

Q Why was your husband going back? To fight with Germany?

A Just to be in Germany.

Q To fight with Germany?

A I guess so, yes.

Q Are you a member of any German organization, fraternal or political?

A Well, I was.

Q What?

A My husband put me in it.

Q In what?

A I don't know what you call it. The German Labor Party.

Q The German Labor Party?

A Yes, sir.

Q When was that?

A Oh, that was away back in 1930.

Q Did you go to any of the meetings?

A No.

Q When did you first hear about your husband's being

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back here? On Tuesday, the 23rd of July?

A That is right.

Q Who told you about it?

A Helmut Leinert.

Q On the telephone?

A No; I met him that night.

Q Who was with him?

A He was alone. He was in Hedy's store.

Q Were you alone, too?

A I was with Miss Engemann.

Q What did he tell you?

A He asked me if I wanted to go with him for a blind date, and I said, "No."

Q Go with him for what?

A A blind date.

Q Yes?

A And so I said I didn't want to go, and he says, "Eddie is here," and I thought he was kidding, so I told him he was crazy, and he said, "Well, come along," so I wanted to find out, and we went downtown, but Eddie wasn't there.

Q You did not see Eddie?

A No.

Q What did he tell you Eddie had told him?

A He didn't tell me anything; he just wanted to say that Eddie wants to see me.

Q Did he tell you how Eddie had come back?

A No. I asked him, and he said he didn't know.

Q I said July 23. That should have been June 23 that you saw him?

A Yes.

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Q I think I said July; it should have been June?

A Yes.

Q You said you had a chance to go home at one time?

A Yes.

Q By "home" you meant Germany, of course?

A Yes.

Q The consul sent for you and told you how you could get home?

A No, he just asked me if I wanted to.

Q And you said you did not?

A Yes, I said I didn't want to.

Q What was your condition then?

A I am all right, I guess.

Q No; at that time, when the consul asked you if you wanted to go home, were you well?

A No, I didn't feel well.

Q Was that the reason why you did not go home?

A Yes, I wanted to save up and have the operation done over here.

The Attorney General. That is all.

REDIRECT EXAMINATION

Questions by Colonel Dowell:

Q By having a chance to go home, did you understand that transportation had been placed at your disposal, if you wanted to go?

A Yes.

Q I am requested to ask you one more question by the defendant. Did you ever express a desire for your husband to marry Hedy Engemann?

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A Did I ever express that to my husband?

Q A desire that he should do so?

A I thought he was in love with her; but I don't know; maybe Hedy is in love with him. I don't know.

Q Did you say any such thing to him or suggest to him that he should get a divorce and marry Hedy?

A I asked him if he wanted to marry somebody else. Colonel Dowell. That is all.

REGROSS EXAMINATION

Question by the Attorney General:

Q What did he say when you asked him that?

A "No"; he said he loves me.

The Attorney General. That is all.

Colonel Dowell. That is all.

The President. The witness may be excused.

Colonel Dowell. Miss Engemann.

Colonel Page. Miss Engemann. Miss Engemann has not been sworn. Mr. Lowenthal, who is with her, has not been sworn.

Colonel Munson. The Military Commission before which you are appearing as a witness, Miss Engemann, and in which you are merely appearing in an official capacity, Mr. Lowenthal, requires each person in the courtroom to take an oath of secrecy as to these proceedings, namely, that he or she will not divulge that secrecy by any remarks outside the courtroom.

It also instructs me to inform each person appearing in the courtroom that violation of that oath may result in contempt proceedings or proceedings of a criminal nature. So, in taking that oath, you understand that to be the fact, do you?

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Miss Engemann. Yes.

Mr. Lowenthal. Yes.

Colonel Munson. Does each of you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by such proper authority, so help you God?

Miss Engemann. I do.

Mr. Lowenthal. I do.

Colonel Munson. Miss Engemann, you will take the oath as a witness.

Do you swear that the evidence you shall give in the case now on hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Miss Engemann. I do.

HEDWIG ENGEMANN

was called as a witness for the defense and testified as follows:

Questions by Colonel Munson:

Q What is your full name?

A Hedwig Engemann.

Q Will you spell your last name, so that the reporter may have it in the record?

A H-e-d-w-i-g.

Q And your last name?

A E-n-g-e-m-a-n-n.

Q Where do you reside?

A 238 East 86th Street, New York City.

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Q What is your occupation, if any?

A Governess; and we have a store at home.

DIRECT EXAMINATION

Questions by Colonel Dowell:

Q Miss Engemann, do you know the accused?

A I do.

Q If so, what is his name?

A Edward John Kerling.

Q How long have you known him?

A Two and a half years.

Q Remember that you are speaking to the Commission, now.

I will ask you questions, and you will address your replies to them. Speak loud enough for everybody to hear. That includes all of the accused.

You have known him for two and a half years?

A Yes, sir.

Q Where did you first meet him?

A In Miami.

Q In Miami?

A Yes, sir.

Q Did you know anything about a boat that he and some others had down there?

A Well, I met him--when I met Edward Kerling, we went to the boat that night.

Q You often went to the boat during the time you were down there when you knew him?

A Yes, sir, every day, practically.

Q Where were you residing then?

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A I don't know the address any more; Second Avenue.

Q Where were you living?

A On Second Avenue, if I am not mistaken.

Q In Miami?

A Yes.

Q What was your employment?

A I was a waitress then.

Q How long was it from the time you first met Edward John Kerling until you left Miami?

A January, February, March--about the end of April.

Q About four months?

A Just about.

Q Did you see a great deal of him?

A Yes, sir.

Q Did you grow fond of him?

A Yes, sir, very much.

Q Did you know he was married?

A I didn't know right away but soon afterward.

Q Did he know that you knew?

A Well, he told me after a while that he was married.

Q Did you find out before he told you?

A Yes, sir, I knew it before.

Q Did that make any difference?

A No.

Q Did you leave Miami before he did or after he did?

A I left Miami before he did.

Q Where did you go?

A I went home to New York, to my mother.

Q Just tell us what your family consists of?

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A I have my mother, a brother Joseph, one brother Carl, and a sister Johanna.

Q Is your father living?

A My father is dead.

Q Where were your father and mother born?

A In Germany.

Q Where were you born?

A In Brooklyn.

Q In the United States?

A In the United States.

Q Were all the children born in the United States?

A My youngest brother was born in Germany?

Q Your youngest brother?

A Yes.

Q I think you have a brother in the United States military service?

A I believe he is there now; he was leaving shortly after I left home three weeks ago.

Q He had been drafted?

A Yes, sir.

Q Did you have any employment after you returned from Miami up to New York City?

A Yes, I worked at the World Fair.

Q During the time you were working there, Edward John Kerling returned from Miami to New York City?

A That is correct.

Q Did he see you again?

A Yes.

Q Did he see you frequently?

019

A Yes.

Q Did his wife know about it?

A I believe she knew then, at that time.

Q Did you ever talk with her about it?

A Not then.

Q But later?

A Yes.

Q When?

A When he had left and gone to Germany.

Q When did he leave?

A The 22nd of July.

Q Did you know at the time he left where he was going?

A Yes.

Q How did you find out?

A Well, through friends, and he told me on the telephone.

Q How long did you work at the World Fair? Until the close of it?

A Yes, I worked there two seasons.

Q What employment did you have then?

A Then I was a governess.

Q From when until when?

A From the 1st of November till the 1st of November, 1941.

Q From the 1st of November, 1940?

A Yes, 1940 to 1941.

Q After that what was your employment?

A I was home. We have a business. I helped home.

Q During the time you were a governess up to November, 1941, who employed you?

o20

A Mr. Andrew Jergens--Jergens lotion.

Q What were your duties as governess? Taking care of children?

A That is right.

Q How many?

A Two.

Q Where?

A We traveled over the country. We were in Cincinnati, Florida, and California.

Q Were you generally traveling rather than residing in one place during that time?

A We would stay--we stayed two months in Cincinnati, four months in Florida, two months in Cincinnati again, and four months in California.

Q During that time I believe you stated that Kerling was over in Germany, or gone, at least?

A Yes.

Q Were you hearing from him?

A Yes, I did.

Q Did you hear from him while you were at home, before you became a governess for Mr. Jergens?

A I couldn't say; I don't think I did--Yes, I did receive letters.

Q But mostly after you were in the employ of Mr. Jergens?

A That is right.

Q Did you hear from him after you left the employ of Mr. Jergens?

A Yes, I did.

o21

Q Did you keep those letters?

A Yes, I have those letters.

Q Where are they now?

A I believe they are in custody of the F. B. I. in New York.

Q In custody of the F. B. I.?

A Yes.

Q Did you or did you not ever discuss with Mrs. Kerling a trip by either of you to Germany?

A Well, Mrs. Kerling wanted me to go to Germany.

Q Why?

A She wanted me to marry Eddie.

Q She suggested that to you?

A Yes.

Q She suggested that she divorce him and you go?

A Yes.

Q Do you know what Kerling said about that?

A No.

Q Do you know of any effort that Edward John Kerling ever made to have his wife, Marie, come to Germany?

A Yes, he wanted her to come to Germany; as a matter of fact, he wrote in the letter he wrote me.

Q He wrote in the letter he wrote you?

A Yes; he could take care of her very well now.

Q You discussed that with her?

A Yes, we have.

Q What was the discussion?

A Well, Marie insisted that I should go.

Q Did she say anything about whether she intended to go

o22

or wanted to go?

A I believe she wanted to go at some future date.

Q Do you know whether or not transportation had been placed at her disposal?

A Yes, she was supposed to leave a couple of weeks ago.

Q In what way had transportation been placed at her disposal? Do you know?

A She got a notice from the Swiss Consulate that she should come and go to Germany; that her trip was being arranged in Germany.

Q What did she say about that?

A She didn't want to go, and she wanted me to go.

Q Did you form a definite conclusion as to why she wanted you to go instead of herself?

A She wanted me to marry Eddie.

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4 p.m.

Q Did you form a definite conclusion as to why she wanted you to do that?

(The witness did not answer.)

Q What I am trying to find out is, had she ceased to love her husband or not?

A I think so.

Q What did she say to you to make you think so, if anything?

A Well, she said I should go, all the time.

Q She did not say why?

A Well--

Q Now, to refresh your memory, did she say anything about considering him more as a brother than as a husband?

A Yes.

Colonel Dowell. No further questions.

CROSS EXAMINATION

Questions by the Attorney General:

Q Were you staying with Eddie just before he left for Germany?

A No; I was at home then.

Q When was the last time you stayed with him before he went to Germany?

A Well, I would see him frequently before he left.

Q Were you intimate before he left for Germany?

A Do I have to answer that?

Q I think you ought to answer that.

A Well, we were very good friends.

Q Before he left?

A Yes.

2b

Q When was the first day you knew that he was back here?

A If I am not mistaken, it was June 22.

Q Who told you?

A Well, nobody told me. Helmut Leiner asked me to come to Central Park.

Q Did you go?

A Yes, I went with Helmut Leiner to Central Park. He was a mutual friend.

Q He was there then?

A And Eddie was there.

Q That is the first time you knew he was back?

A Yes.

Q Did he tell you how he had come back?

A If I recollect right, he told me that night how he had come back.

Q That night?

A Yes.

Q He said he had come back by submarine?

A Yes.

Q Did you say "Yes"?

A Yes.

Q Did he tell you what he had come back to do?

A No.

Q Did you ask him?

A No.

Q You did not ask him?

A No.

Q You did not ask him?

A No.

Q Did he tell you who had come back with him?

A He mentioned Herman Neubauer.

Q Did he mention anyone else?

A No.

Q And then he gave some money to you, didn't he? He gave you some money?

A Well--

Q Did he give you some money then?

A I would like to decline to answer that, because it would incriminate me.

Q Well, you have already stated to the F.B.I. that he gave you some money?

A Yes, I have.

Q Was that true?

A Yes.

Q How much money did he give you?

A It was an odd twenty-dollar bill.

Q And he asked you to change it for him?

A Yes.

Q And Leiner gave you a fifty-dollar bill, did he?

A That's right.

Q Did he tell you he had got that from Eddie?

A No, he did not say he got it from Eddie.

Q Did you know he got it from Eddie?

A I kind of gathered it.

Q You kind of gathered he got it from Eddie? Did he ask you to change that, too?

A Yes.

4b

Q Did he give you another fifty-dollar bill to change?

A Yes.

Q You knew that they came from Eddie, didn't you?

A Yes, I kind of gathered it.

Q What did you do with them? Did you change them?

A Yes, I changed them.

Q What did you do with the change? Did you give it back to Eddie?

A No. I didn't have a chance to give it back to him, because I did not see him again.

Q Did you give any to Leiner?

A No. I still have it.

Q How long did you talk to Eddie when you saw him that night? Several hours?

A I believe about an hour in the afternoon.

Q You spent the evening together, didn't you?

A Yes. Mr. Leiner, Eddie, and I spent the evening together.

Q Were you alone with Eddie at all?

A Only in the afternoon, in the park.

Q How long was that for?

A I should say about an hour.

Q Had he asked you to go to Florida at that time?

A Yes.

Q What did you tell him? Did you say you were going to Florida with him?

A I think I would.

Q Did you tell him that?

A Yes.

5b

Q Did he tell you why you were going to Florida? Did he tell you he was going to drive down in an automobile to Florida?

A I believe--I don't know. We didn't talk long.

Q He did not say how you were going down to Florida?

A No.

Q He did not mention that?

A I don't remember.

Q You do not remember that. Did he say he was going to Cincinnati?

A Yes, Cincinnati and Chicago.

Q Did he ask you to go to Cincinnati with him?

A Yes.

Q And Chicago also?

A Yes.

Q Did you tell him you would go to Cincinnati and Chicago with him?

A Yes.

Q Did I understand you to say that he wrote you from Germany that he wanted his wife to go back to Germany?

A Yes.

Q How many times did he write that?

A I don't know; several times. I've got the letters.

Q Have you got the letters?

A Yes.

Q Where are they?

A The F.B.I. has them now.

Q By the way, did Eddie tell you how he landed from the submarine? Did he say what kind of boat they used?

A I believe he mentioned a rubber boat.

Q Did he say he was an agent of Germany?

A No.

Q He did not say that?

A No.

Q Did he tell you whom he was working for?

A No.

Q Did you have any opinion as to what Eddie was doing?

A No.

Q You did not know whether he was an agent or not?

A No.

Q Do you think he was?

A I didn't know.

The Attorney General. That is all.

REDIRECT EXAMINATION

Questions by Colonel Dowell:

Q Miss Engemann, have you been successful in your occupation as a governess?

A Yes.

Q To what do you attribute your success, principally? Have you studied any subject that you consider has helped you in that way?

A Well, I had a little child training in school.

Q A little what?

A Child training in school.

Q Child training? You had that subject, child training?

A Yes.

Q You stated you did not ask Kerling what his purpose was in coming back from Germany. You also stated you did not

7b

ask him what he was going to do on his trip. Did you have any particular reasons why you declined or refrained from asking him those questions?

A Because I knew--

Q Because you knew him?

A Yes, I knew him, and I didnot want to ask questions.

When the right time came--

Q Go on and tell the Commission, frankly, why.

A Well, I knew Eddie so well.

Q What did you know about him so well that caused you to refrain from asking questions? Go on and tell them, frankly. They want to know.

A Because I knew Eddie so well and asking him questions wouldn't just do.

Q Pardon me?

A Asking questions wouldn't just do.

Q How would you find out?

A Eventually.

Q Did you want to find out?

A Yes.

Q What do you mean by "eventually"? You mean he would tell you of his own accord eventually; is that it?

A Yes, I think so.

Q What would happen if you asked him? Did you ask him?

A I don't think I asked him that time.

Q Well, now, it has been mentioned that Kerling asked you to go on a trip with him to Florida. Is that the trip that he asked you to go on, or is it a longer trip than that?

8b

If so, describe the trip.

A Well, he asked me to go to Chicago and Cincinnati and Florida with him.

Q What was the situation with reference to your business? I think you stated you have a business in New York City?

A That's right.

Q What is it?

A Groceries.

Q Groceries?

A Yes.

Q Who takes care of the store?

A My family.

Q Do you help considerably with it?

A Yes.

Q Who is the principal manager of that store?

A My brother Joseph, who is going in the Army.

Q And he is going away or has gone?

A Yes. I really don't know. I have not heard.

Q What did you think about the responsibility that left upon you in that connection? Did you feel any responsibility because of that?

A Yes, I did.

Q Did you consider that in connection with Kerling's request that you come with Kerling on this trip to Cincinnati, Chicago, and Florida? Did you consider your responsibility at the store?

A Yes.

Q Had you ever worked the problem out or come to a

9b

final decision? ,

A Well, I believe I would have gone.

Q You believe you would have done it? My question is, had you done so at the time?

A Yes.

Q You had decided to go with him?

A Yes.

Colonel Dowell. No further questions.

EXAMINATION BY THE COMMISSION

Questions by the President:

Q What did Kerling tell you when he asked you to go with him on this trip to Cincinnati, Chicago, and Florida? What reason did he give for making the trip?

A He just said he had to go there.

Q For what reason?

A He didn't say.

Q He said it was a pleasure trip, did he?

3 A No, no. He said he had to go to Chicago, Cincinnati, and Florida, and he wanted me to go with him.

Q How?

A Well, accompany him.

Q By train?

A Well, we really did not discuss which way.

Q Did he tell you who else was going with you?

A No.

Q Nobody?

A No, I don't think so.

Q He told you he was going alone, did he?

A Yes.

Q Whom was he going to meet in Cincinnati and Chicago?

A I don't know.

Q Did he tell you of any names of anybody he was going to meet?

A No.

Q Did he ever mention Herbert Haupt to you?

A No.

Q Never?

A Never.

Q Did he say he was alone in this country; that he had arrived alone from Germany?

A No. I knew that Hermann Neubauer was here. That's all I knew.

Q Why did you know Hermann Neubauer was here?

A Well, he said Irma, Mr. Neubauer's wife, would be kind of upset if she knew Hermann was here--something like that.

Q Was Hermann Neubauer going to accompany you on this trip?

A I don't know.

The President. Are there any questions by the members of the Commission? There seem to be none. The witness is excused.

Colonel Dowell. If it please the Commission, the defense rests.

Colonel Ristine. The defendant Mr. Dasch rests his case.

The Attorney General. With the Commission's permission, we will send these two witnesses back to New York, Mrs. Kerling and the last witness.

Colonel Sherrill.

This is rebuttal evidence, may it please the Commission.

Lieutenant Page. Colonel Sherrill. This witness has not been sworn.

Colonel Munson. Colonel Sherrill, the Military Commission before which you are appearing requires of all witnesses who appear in the courtroom that they take an oath of secrecy that they will not divulge the proceedings of the courtroom outside the courtroom. In taking that oath they instruct me also to inform such witnesses that they are subject to the penalty of contempt proceedings or other proceedings of a criminal nature; and, of course, a person subject to military law and provisions of the Articles of War, for violating an official status.

In taking the oath, therefore, you understand that to be the fact?

Colonel Sherrill. I do.

Colonel Munson. Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by proper authority, so help you God?

Colonel Sherrill. I do.

Colonel Munson. Do you swear that the evidence you shall give in the case now on hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Colonel Sherrill. I do.

COLONEL STEPHEN H. SHERRILL

was called as a witness for the prosecution in rebuttal and testified as follows:

DIRECT EXAMINATION

Questions by The Judge Advocate General:

Q What is your full name, rank, organization, and station?

A Colonel Stephen H. Sherrill, General Staff, Washington, D. C.

Q What is your official position?

A I am on duty in the Operations Division, War Department, General Staff, in charge of the North America Theatre Group.

Q And particularly in charge of the Eastern Defense Command?

A That is one of the subdivisions of my theatre.

Q I will show you defendant's Exhibit L and invite your attention to that portion of it which contains a certain letter, "Subject: Defense of Continental United States," the letter being dated March 18, 1942, and ask you if you are familiar with that (handing a document to the witness).

A I am, yes, sir.

Q The second paragraph of that letter reads as follows:

"The name of the Eastern Theater of Operations is changed to Eastern Defense Command. The Eastern Defense Command will not be a Theater of Operations."

Will you explain to the Commission just what the reason for that order is and the effect of it?

A Field Service Regulations defines a theater of operations as an area of the theater of war necessary for military operations and the administration and supply incident

to military operations.

Now--

Questions by Colonel Dowell:

Q Will you state the paragraph and page?

A Paragraph 2, page 1, Field Service Regulations.

That is the definition of the theater of operations.

The order of March 18th, changing the Eastern Theater of Operations to Defense Command, was issued because--

Q It is the reverse of that, I believe, isn't it?

A I beg your pardon?

Q It is the reverse of that, isn't it?

A I think not.

Q You said changing the Theater of Operations to Defense Command?

A That is what I said.

The Judge Advocate General. That is correct.

The Attorney General. I think it will be easier to let him continue on with his testimony and then you can cross-examine him.

Questions by the Judge Advocate General:

Q You may go ahead.

A The term "Theater of Operations" as pertaining to the eastern part of the United States was changed to that of the Eastern Defense Command on March 18th, because experience had indicated that the supply establishments, training centers, ports, and so on, should operate under the War Department rather than under the Commanding General of the Eastern United States. That was the purpose for making the change.

Q So far as the tactical situation is concerned, is

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there any change?

A Not at all.

Q In a tactical sense is that still a theater of operations?

A Yes, I think so. The Theater of Operations, as I say, is a term that includes more than tactical operation; and the purpose for changing the name was to eliminate only those parts which had to do with supply establishments and administration.

Q Is that the situation with the other defense commands?

A That is the same.

Q Is that the situation in Alaska, for example?

A That is correct. That is a defense command also.

Q That is at the present time a theater of operations?

A Well, operations are being carried on there.

Q The Japanese are right there in possession of some of the Islands?

A Some of them.

The Judge Advocate General. That is all.

Questions by the Attorney General:

Q What is the definition of "Defense Command"? Is it defined in your book there?

A I have a definition here, which defines a defense command as a territorial agency designed to coordinate or prepare and to initiate the execution of all plans for the employment of army forces and installations in defense against enemy action in that portion of the United States lying within command boundaries.

I might say that each of the defense commanders has troupes,

15b

both ground and air, assigned to him for the purpose of carrying out this mission of operations against the enemy.

Q I take it the Eastern Defense Command comes under that definition of Defense Command, does it not?

A Yes, sir, it does.

Q Was Amagansett Beach a part of the Theater of Operations?

A Part of the Eastern Defense Command. We use that terminology, sir.

Q From a tactical point of view?

A Tactically, yes, within that area.

Q Was it tactically a part of the Theater of Operations?

5 A I must repeat again, the term "Theater of Operations" is merely a definition which includes supply and administration installations. We dropped that and adopted the other term. However, tactical operations in the Eastern Defense Command were just as effective at Amagansett Beach as at any other point.

Q And just as effective after this letter was issued as before it was issued?

A Yes.

Q How about Florida?

A Florida is also part of the Eastern Defense Command.

Q And from a tactical point of view, there was no difference in Florida than there was before the letter was issued?

A None whatsoever, no, sir.

Q I am referring, of course, to the letter of March 18.

A I understand.. Yes, sir.

The Attorney General. Cross-examine.

CROSS-EXAMINATION

Questions by Colonel Dowell:

Q Colonel, you have read the definition of a theater of operations from the Field Service Manual?

A Yes, sir.

Q Was that term properly applicable to what is now called the Eastern Defense Command?

A So much of it except for that part which applies to administration and supply, which has been eliminated, and that is the reason for changing the title.

Q It is true that the administration and supply really pertain to the Zone of the Interior, is it not, back of the theater of operations, and that the Zone of the Interior has the job of putting the supplies up to the theater of operations and on the front?

A That is right.

Q Now, the Theater of Operations is nearer the fighting than is the Interior?

A Yes.

Q The determination was made that the supply situation in the Eastern Defense Command made that more properly part of the Zone of the Interior than the Theater of Operations, because of the supply functions involved; is that true?

A That is right--training activities and things of that kind.

Q Of course, if there is any fighting which takes place in the Zone of the Interior, that becomes a military operation. We understand that. That is true, but would that

make it a theater of operations?

A Well, I think so. As soon as fighting took place there, yes; immediately that becomes factual.

Q Wherever fighting was going on?

A Yes.

Colonel Dowell. I have no further questions.

The Attorney General. That is all.

The President. There seem to be no questions by the Commission. The witness may be excused.

The Attorney General. It is understood that this Defendant's Exhibit L is spread on the record?

Colonel Royall. The map, too?

The Attorney General. The written material. The map is part of the exhibits.

(DEFENDANT'S EXHIBIT L)

"CONFIDENTIAL

WAR DEPARTMENT

The Adjutant General's Office

Washington

In Reply

MNE/kls - 1705.

Refer to AG 381 (7-27-42)MS-E

July 27, 1942.

SUBJECT: Defense of Continental United States.

TO: Colonel Cassius M. Dowell,
Senior Defense Counsel.

"1. Paragraph 2 of War Department letter, March 18, 1942, AG 381(3-11-42) MC-E-M, subject: Defense of Continental United States, was in effect on June 13, 1942, and is still in effect.

"2. Inclosed is a map of the Army Map Service, U. S. Army, Washington, D. C., 107353, 1942, authenticated as correct insofar as it pertains to the boundaries of the Eastern Defense Command as of June 13, 1942.

"By order of the Secretary of War:

"(Signed) J. A. Ullo
Major General,
The Adjutant General.

1 Incl.

Map of Army Map Service, U. S. Army,
Washington, D. C., 107353, 1942."

- - -

"CONFIDENTIAL

WAR DEPARTMENT COPY NO. _____
The Adjutant General's Office
Washington

AG 381 (3-11-42)MC-E-M

March 18, 1942.

SUBJECT: Defense of Continental United States.

To: Commanding Generals, Eastern Theater of Operations,
Western Defense Command,
Central Defense Command,
Southern Defense Command,
Army Air Forces,
Army Ground Forces,
Services of Supply.

"1. The following instructions become effective March 20, 1942, except where different dates are specifically designated. Current instructions in conflict therewith are either rescinded or modified accordingly.

"2. The name of the Eastern Theater of Operations is changed to Eastern Defense Command. The Eastern Defense Command will not be a Theater of Operations.

"3. The Eastern, Central, Southern and Western Defense Commands are subordinate directly to the War

Department. War Plans Division, WDGS, is the agency through which the Chief of Staff directs the Defense Commands.

"4. The First and Fourth Armies are assigned to the Eastern and Western Defense Commands respectively. The Second and Third Armies are assigned to the Army Ground Forces. The Commanding Generals Second and Third Armies perform a dual function as Commanders of the Central and Southern Defense Commands respectively.

"5. Eastern Defense Command.

"a. The following pass to control of the Commanding General, Services of Supply:

"(1) Corps Areas or parts of Corps Areas in the area of the Eastern Defense Command, including units of the field forces now engaged in protection of utilities, installations and facilities against sabotage or internal threat.

"(2) Present theater of operations supply establishments in the Eastern Defense Command Area.

"b. The I and VI Army Corps, including assigned or attached troops, pass to the control of the Commanding General, Army Ground Forces, at their present station. The Commanding General, Eastern Defense Command, will submit to the Chief of Staff by March 25, 1942, a list of Army and GHQ troop units required for continued assignment to the Eastern Defense Command.

"c. Units of the Newfoundland Base Command will not be transferred to other areas without authority of

the War Department.

"6. Western Defense Command.

"a. Temporarily and until further orders as indicated below, the Western Defense Command retains its present status, including control of the Ninth Corps Area. The Commanding General Western Defense Command, will notify the War Department when the evacuation of the bulk of the Japanese in California has been completed. At that time the War Department will issue instructions withdrawing the classification of the Western Defense Command as a theater of operations and assigning the Ninth Corps Area and its functions including protection against sabotage to the Services of Supply, except that the Western Defense Command will remain responsible for the protection against sabotage of the airplane plants at Seattle, Los Angeles and San Diego.

"b. As arranged by the Commanding Generals, Army Ground Forces and Western Defense Command, but not later than April 15, 1942, the III and VII Army Corps Headquarters and Corps Troops and the 3d, 7th, and 35th Divisions will pass to the control of the Commanding General, Army Ground Forces. The Presidio of Monterey, Fort Ord and Camp San Luis Obispo are designated as stations of the above named units. The Commanding General, Western Defense Command, will submit to the Chief of Staff by April 1, 1942, a list of Army and GHQ troop units under his control indicating thereon those units required for continued

assignment to the Western Defense Command.

"c. Units transferred from the Western Defense Command to the Army Ground Forces and stationed within the Ninth Corps Area will be supplied by the Ninth Corps Area.

"d. Movement of units from continental United States to Alaska will be made only on authority of the Chief of Staff, except that air units may be so moved temporarily in order to meet sudden specific threats.

"7. General instructions to the Eastern and Western Defense Commands.

"a. The commanders of the Eastern and Western Defense Commands will each organize an anti-aircraft command in accordance with the principles of Training Circular No. 71, War Department, December 18, 1941. These antiaircraft commands will be under the operational control of the Interceptor Commands of the 1st and 4th Air Forces respectively.

"b. Defense Command troops will be afforded every practicable opportunity to continue training.

"c. In order to avoid delay in air reinforcements of overseas garrisons, only temporary changes may be made in operating bases of heavy and medium bombardment units. Tactical movements may be ordered as required for units assigned to the defense commands. Permanent changes of station of units will not be made except by authority of the War Department.

"d. The integrity of the set-up of the inter-

ceptor commands, including signal communications, will be preserved.

"e. Pending the assignment of suitable units to the Army Air Forces, ground units of the Defense Command will provide necessary guard of airdromes. Air Corps troops will be used for this purpose only in emergencies. Traffic control and normal interior guard functions will continue to be performed by Air Corps troops.

"8. Central and Southern Defense Commands.

"a. The Commanding General, Third Army, in his capacity as Commander of the Southern Defense Command and after coordination with the Commanding General, Army Ground Forces, will use such forces of the Third Army as may be necessary to defend against external attack the coastal and land frontiers of the Southern Defense Command and such other points within the command as may be specifically designated by the War Department.

"b. The Commanding General, Second Army, in his capacity as Commander of the Central Defense Command is charged with such security of the Sault Saint Marie Locks and Canal as is provided by elements of the Army Ground Forces. The Sault Saint Marie Military District is placed under his command.

"9. Army Ground Forces.

"a. Units transferred from the Eastern and Western Defense Commands will be reassigned within

the Army Ground Forces.

"b. All troops within the Defense Command area, will be available to the Defense Commander in emergencies, reporting each use to the Commanding General, Ground Forces.

"c. Except as indicated below, units of the Second and Third Armies now on duty protecting utilities, installations and facilities against sabotage or internal threat pass to the control of the Commanding General, Services of Supply, until relieved by military police units of the Services of Supply. United which perform antisabotage missions incidental to their defense missions will remain under Army control.

"10. Services of Supply.

Except where specifically charged to other commanders, the Commanding General, Services of Supply is charged with protection of utilities, installations and facilities in the United States against sabotage and internal threats. He will:

"(a) Release to the Commanding General, Army Ground Forces, units of the Army Ground Forces engaged in protection of utilities, installations and facilities against sabotage or internal threat as rapidly as military police units become available to replace them.

"(b) Provide supplies for, and cooperate with the Defense Commander in carrying out his mission.

"(c) At the request of the Commanding Generals, Eastern and Western Defense Commands, procure and place

at their disposal such land, positions and other facilities as the mission of the Defense Commands may require.

"11. Army Air Forces.

"No Army Air Forces are at this time assigned defense missions in the Central and Southern Defense Command areas.

"By direction of the Commander-in-Chief:

G. C. Marshall,
Chief of Staff.

OFFICIAL:

DWIGHT D. EISENHOWER,
Brigadier General,
Assistant Chief of Staff.

COPIES FURNISHED:

The Chief of Naval Operations;
The Commander-in-Chief, U. S. Fleet;
The Inspector General;
The Divisions of the War Department
General Staff."

- - - - -

THOMAS J. DONEGAN

was recalled as a witness for the prosecution in rebuttal and, having been previously duly sworn, testified as follows:

Colonel Munson. Mr. Donegan, having been sworn previously, you are reminded that you are under oath.

The Witness. Yes, sir. Thomas J. Donegan, Assistant Agent in Charge, Assigned to the New York Office.

DIRECT EXAMINATION

Questions by the Attorney General:

Q The defendant Thiel testified as follows:

"Yes, Mr. Donegan mistreated me. He took me to his

office, and I don't know exactly what he asked me, and I didn't answer, and he pulled my hair and slapped me." What did occur on that occasion that Thiel refers to?

A I did not pull Thiel's hair or I did not slap him. I did talk rough to him--well, I would characterize it as being rough. In other words, while I was talking to Thiel I told him that I had information definitely indicating that he had landed in Florida from a submarine.

He denied he landed in Florida. He stated that he came from Mexico.

Subsequently, after I talked to him for a while, he admitted he was in the vicinity of Jacksonville.

I asked him how he arrived at Jacksonville. He said he could not explain that.

I did use some rather strong language.

Q Perhaps you could give us an example of it?

A I don't know whether I should put it in the record. I told him that I considered him a dirty rat. He had earned his living in this country and he had sneaked into the country again for the purpose of harming people in this country, possibly killing them.

I told him that I knew there were explosives buried in Florida in the vicinity of Jacksonville, and I wanted to know where those explosives were buried, and he did not give me that information.

Q No one else was there at that time?

A No. He was in my office alone.

Q And then the doctor came in?

A I have no knowledge of that. The doctor came in subsequently.

Q You were not there at that time?

A No, I was not.

Q Kerling, as I remember, testified that you were to the left of him, in a sitting position, and that Drayton was in front of him, and that you got mad and pulled his hair, drew him down, and tipped him over on his lap, and you took your hand and slapped him.

Do you remember the occasion when you and Drayton were together?

A I remember Drayton and Kerling and myself were in my office.

Q What did occur?

A I was talking--I had previously talked to Kerling for a considerable period of time in my office. I talked to him alone, and during my conversations with him I told him that I had knowledge that he landed from a submarine in the vicinity of Jacksonville.

I told him that I wanted to know where the explosives were buried. I had a map of Florida and I told him I would like him to point out the place on the map where the explosives were buried.

He denied having any knowledge of any explosives being buried. He denied that he came on a submarine. He stated that that he came from Mexico.

Also with reference to Kerling, I perhaps used the same type of language that I used with Thiel. I told him that I was not going to sit there like a fool and listen to that

kind of story from him.

Q Did the doctor come in while you were there?

A No, sir.

Q Did you hear Kerling make any complaints about your slapping him?

A I think I testified before with reference to the fact that Kerling had said I brushed him by the face, and I asked him whether that was true, and he said no, it was not true subsequently. I think I testified to that.

Q Yes, you testified to that.

CROSS-EXAMINATION

Questions by Colonel Royall:

Q Mr. Donegan, did you go out with Kerling in the meantime alone and talk with him?

A Since he made that allegation?

Q Yes.

A No, I did not.

Q Are you certain about that?

A Yes, I am certain about that.

Colonel Royall: That is all.

The Attorney General. That is all.

The President. There seem to be no questions from the Commission.

The Attorney General. The Prosecution closes its rebuttal.

Is there any surrebuttal?

Colonel Royall. No.

The Attorney General. May it be noted on the record, then, that the case, so far as the evidence goes, is now closed?

Colonel Royall. It may.

Colonel Ristine. That is correct.

The President. I will adjourn the open session and will communicate the time later, but in connection with that I would be very glad to have the representatives of both sides talk to us about that.

(There was an informal discussion, after which the following occurred:)

The President. We will adjourn until 10 o'clock Thursday morning.

(Thereupon, at 4:37 o'clock p.m., an adjournment was taken until Thursday, July 30, 1942, at 10 o'clock a.m.)

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City of Washington,)
) SS
District of Columbia)

I, Lloyd L. Harkins, a member of the firm of shorthand reporters designated as the official reporters for the Military Commission appointed by the President on July 2, 1942, do hereby certify that the foregoing typewritten pages numbered from 1 to 2762 include a full, true and complete transcript of the proceedings as taken before said Military Commission on July 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 24, 25, and 27, 1942.

Lloyd L. Harkins

Subscribed and sworn to before me this 29th day of July, 1942.

Orville H. Hark
Notary Public



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